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TRANSLATED, WITH AN INTRODUCTION

BY

PERCY ELLWOOD CORBETT, M.C.

*Fellow of All Souls' College, Oxford.*

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## BIOGRAPHICAL NOTE.

Erasmus was born at Rotterdam in 1467, son of Roger Gerard and a certain Margaret, daughter of a physician at Sieben Bergen.

At the age of nine he entered the school at Deventer, where he made the acquaintance of Adrian, destined to become successively tutor to Charles V., Cardinal-Regent of Spain, and Supreme Pontiff. At Deventer he gave some promise of future brilliance, showing a strong leaning to the classics and composing Latin verses.

In 1478 his father and mother died, leaving him and his elder brother under guardians. The latter, according to a letter written late in life to Grunnius, Papal Secretary (*Ep. App. CDXLII.*), either fraudulently made away with or negligently lost all the family property, and the brothers were prevailed upon by their relations to enter monasteries. Erasmus became an Augustinian Canon of St. Gregory's at Steyn. He was much too delicate for the alternate fasting and heavy feeding of the monks, and was most unhappy in this situation. His main consolation was the library at his disposal. After being ordained priest in 1492, he became, through the Prior of his house, Secretary to the Bishop of Cambrai.

The Bishop provided him with an allowance and permitted him to go to Paris, where he entered the "domus pauperum" in the College of Montague. Here he began studying Greek and teaching it to the pupils whom he took in to supplement his resources. It was in this way that he won the friendship of Lord Mountjoy, and also became acquainted with the Lord of Vere, whose wife, Anna Bersala, was to become his patron.

In 1497 he accompanied Mountjoy to England, where he met Thomas More, Colet, Grocyn, and Linacre, and spent some time at Oxford as the guest of Richard Charnock, Prior of St. Mary's College. At Oxford he found a warm welcome for his wit and learning.

His return from England to Paris, in 1500, was followed by the publication of the "*Adagia*," which sold rapidly enough to be a considerable help to his finances. This work, a collection of wise sayings gathered everywhere in his reading, also contains his first mild attacks on ecclesiastics and ecclesiasticism. Nevertheless, it won him the patronage of Warham, afterwards Archbishop of Canterbury. To about the same time is assigned the "*Encheiridion Militis Christiani*" (Manual of a Christian Knight), which he wrote at the request of Anna Bersala in an attempt, apparently fruitless, to reform her husband.

We find him in England again in 1501—2, and in 1504 he went to Italy as tutor to the sons of Baptista Boerio, physician to Henry VII. It was during this visit that he received the degree of D.D. at Bologna, and made friends in the College of Cardinals at Rome. All this time he had been working at Greek, translating plays, Lucian, Plutarch. He was also engaged in writing a Commentary on St. Jerome, with the object of restoring to theology its original simplicity. He made his third visit to England in 1505, and lectured for some months at Cambridge. After this he made a second journey to Rome, but, on the invitation of Henry VIII., returned to England in 1509. Warham, now Archbishop and Chancellor, gave him the living of Aldington, in Kent, which he resigned after six months, receiving a pension of £60 in its stead. For some time he lived with More in London, and at More's instigation wrote the "*Enconium Morie*" (Praise of Folly), much of which was devoted to ridicule of the existing ecclesiastic regime. Again lectured on Greek at Cambridge. Printed his "*Jerome*" and completed his work on the New Testament—restoration of the Greek text and translation into Latin, with voluminous notes frequently attacking the licence of the priesthood and the excessive formality of church services.

About 1514 he left England for the last time, going to Brussels, where he was received at the court of the Archduke Charles. The latter offered him a bishopric in Sicily, which Erasmus did not want, and granted him an additional pension. It was at this time that he wrote the "*Institutio Principis Christiani*," dedicated to Charles, and the "*Querela Pacis*," dedicated to Philip of Burgundy, the new Bishop of Utrecht. Made Louvain his

headquarters, helping to found a "Collegium Trilingue," but went frequently to Bâle, where his books were being reprinted. Took sides in the controversy between the advocates of the new learning and the scholastic theologians, and was particularly active in the defence of Reuchlin, which won him the hatred of the Louvain doctors.

Erasmus long refused to write against Luther, for he, too, thought much reform necessary in the Church. However, he wished the reform to be effected without violence or schism, and feared the effect of the new dogma which Luther went on to develop. It was only when urged by Pope Adrian VI., and at a time when he saw that Luther's work was leading rapidly to division in the Church, that he wrote "De Libero Arbitrio" as a reply to the Lutheran theology of the unfree will, predestination, insufficiency of works, and justification by faith.

Meanwhile he had moved away from the strife of Louvain to live with Froben at Bâle, and had there published the "Colloquies," pictures of men he had met, events of the time, and his own experiences. He also collaborated in the Froben editions of the "Fathers." Later, when Bâle turned completely Lutheran, Erasmus left it for Freyburg, where he lived in complete retirement, corresponding with scholars, cardinals, and princes. Several times high office in the Church was offered him, once by Pope Paul III., but ill-health and, perhaps, unwillingness to take a definite stand in a struggle where both parties claimed his sympathy, made him refuse. In 1535 he found himself too weak to endure the climate of Freyburg, and returned to Bâle, where he died in the following year.





## INTRODUCTION.

Throughout the whole of Erasmus' life, 1467—1536, there never was a time when Europe was at peace. In Holland his boyhood witnessed continual struggles between Hoeks and Cabeljaus, intermittent war between the Duke of Gueldres and the Bishop of Utrecht, and the ravages of German bands retained by the oppressive ducal governors. Flanders, Brabant, and Liège were the scenes of repeated revolts against the sovereignty of successive dukes of Burgundy, put down for a time by ruthless massacres of the towns and breaking out afresh at every accession of strength to the Guilds. Further afield were the expeditions of Charles the Bold against France, Alsace and Lorraine, ending in his death at the siege of Nancy in 1477, and resumed by Maximilian after his marriage with Charles' heiress, Mary. In 1494, the year in which Erasmus, by becoming secretary to the Bishop of Cambrai, took his first step into the world, Charles VIII. embarked on his expedition against Naples, thus beginning an ever-shifting series of wars, intrigues and leagues, which was to absorb all the Courts with which the scholar of Rotterdam became familiar in his wandering life. In 1517, Luther nailed his ninety-five theses on the church door at Wittenburg, and the Christian world was thrown into a struggle which, violent as it became during the twenty years left to Erasmus, was destined to involve more bloodshed and destruction than his darkest warnings foreshadowed.

No wonder if, in such a period, men who were able to detach themselves, in the precarious quiet of monastery or university, from the perils of the moment, pondered deeply on the nature and causes of war. This was particularly inevitable in the case of Erasmus, who, through his acquaintance with many courts and princes, temporal and ecclesiastical, had the widest information possible in that day, and who, because he would never bind

himself to person or party, could think and speak with complete independence and detachment.

There was already a vast amount of literature on war. In theory, at least, the Church had always been opposed to conflict between the faithful. From the beginning of our era, churchmen had wrangled on the nature of war, some of them, like Clement of Alexandria, Tertullian, Origen, and Lactantius, denying that it could ever be just, while others distinguished between just and unjust war. St. Augustine belongs to the latter school. He admitted all the evils of war, and preached moderation in the profession of arms, but maintained, nevertheless, that to fight in defence of the State and for the general good was no sin. To be just, a war must satisfy three conditions—it must be authorised by a prince (thus St. Augustine excludes private war from the “just” category), it must be undertaken in a good cause, and must be waged with right intention—*i.e.*, to do good or avoid evil.

Augustine's distinctions were repeated and developed by Canonists like St. Isidore of Seville (560—636), Raymond de Peñaforte (1175—1275), and Henry of Susa (—1271). One of the more famous works dealing with the subject is “*L'Arbre des Batailles*,” written by Henri Bonet, Prior of Selonnet, about the end of the fourteenth century. He was so strict in his limitation of just war that he went beyond most of his predecessors and contemporaries in denying the *ipso facto* justice of war against the infidel. Another work frequently quoted by the “Irenists” in England and on the Continent was the “*Livre des faits et de Chevalerie*,” written by Christine de Pisan in the first half of the fifteenth century, a book which brings us close to the time of Erasmus.

The civilians also discussed the question of just and unjust war. Baldus and Jean de Legnano repeat and elaborate the definitions of the canonists, supporting them with reasons drawn from the Roman Codes and Institutes. The subject also finds a place in the important Spanish legal collection, the “*Siete Partidas*,” compiled in the thirteenth century.

Of these and the numerous other disquisitions on war, the great majority maintained that it was not essentially incompatible

with justice. On the other hand, there were out-and-out pacifists, like Wicliffe and the Lollards generally, who condemned it as an unmitigated evil.

Erasmus several times refers to the controversy, though to him the distinction is a matter of entirely secondary interest. He is uncertain, though rather inclined to hold that no war is just, and leaves the question to dwell on the ever-present fact of the horrors of war. He will not concern himself with nice definitions, nor with the scholastic and mystical classifications of war. Even against the Turks he would not rashly take up arms, for he doubts whether Christ would approve of extending his Kingdom by such means. Too often he had seen the pretext of a Crusade used for the purpose of extorting contributions from the peoples (a). In Europe, as he saw it, war was almost invariably the result of pride, folly and selfish intrigue, and he made it his task to point out how, by proper instruction begun at the earliest age, the Sovereign and his Councillors might be led to abhor what was plainly the worst of all human calamities.

Laurens, in his "*Etudes sur l'histoire de l'humanité*," vol. X., "*Les Nationalités*," p. 394, says:—"It is the feelings and ideas of antiquity, at the moment when antiquity is about to give place to a new era, that inspire the humanists of the sixteenth century; they speak indeed of Christian charity, but Seneca, rather than the Gospel, is their sacred book; the invectives of Juvenal against conquerors touch them more than St. John's words of love. It is an entirely literary movement, that is why it leaves out of account the demands of reality."

This may stand as a general characterisation of the leaders of the Renaissance, all of whom, says Laurens, were "partisans of peace." But it is impossible, though Erasmus obviously draws much of his thought from Plato, Xenophon, Isocrates, Cicero and Seneca, not to except him from the generalisation. Not merely in "*Institutio Principis*," but in "*Querela Pacis*" (quoted again and again by the various peace societies), in the "*Adages*," and most of all in the "*Letters*," Erasmus speaks from the heart and on the basis of his own wide experience and knowledge of events, of the terrible sufferings and injustice involved in the wars into

(a) See "*Institutio Principis Christiani*," *Opera Omnia* IV., 610.

which heedless potentates plunged Europe. These are no mere elegant repetitions by a devotee of classical learning, they are cries of sad warning from one wholly alive to the perils of his time (b).

One may doubt, too, whether it was merely to carry on a "literary movement" that Colet braved the Court of Henry VIII. in England, preaching against the projected war with Louis XII. About the same time another voice for peace makes itself heard in England, that of Thomas More in the "Utopia." (See Chap. VIII.: "Warre or battel as a thing very beastelye, and yet to no kynde of beastes in so much use as it is to man, they do detest and abhorre; and contrarye to the custome almost of all other natyons, they cownte nothing so much against glorie, as glory gotten in warre"—Ralph Robinson's translation, 1551). In what follows may be seen the reflection of the controversy as to *justæ causæ* . . . "they never to goo to battayle, but ether in the defence of their own cowntreie, or to dryve owte of their frendes lande the enemyes that be comen in, or by their powre to deliver from the yocke and bondage of tyrannye some people that be oppressed with tyranny."

Apart from such general discussions of war, there had been, before the time of Erasmus, various schemes for an organisation of States to secure peace.

In his "De Monarchia," Dante had advocated the centralisation of all the nations of the world in the Empire. The Emperor would be supreme arbiter in all disputes between States, and it would be his first task to achieve universal peace. (Dante, *De Monarchia* Lib. I. § xiii.).

Others would have made the Pope supreme overlord. Gerohus of Reigersperg, a German theologian of the twelfth century, who, says Ter Meulen (*Der Gedanke der Internationalen Organisation in Seiner Entwicklung, 1300—1800*), is erroneously called the first pacifist, held that no war should be undertaken without the consent of the Church. He was not against war in general, but the question of cause was to be settled by the Church, which,

(b) See, *e.g.*, letter to Antony of Bergen, 1514, No. 288 in Vol. I., P. S. Allen's edition of the letters; letter of 1521 from Anderlac, Froude, *Life and Letters*, p. 292; letter of March 18, 1528, Froude p. 348, to Herman, Archbishop of Cologne; "Querela Pacis," *Opera Omnia* IV., 636 (Leyden Edition, 1703).

when satisfied that one belligerent had a just claim, must encourage him with the sacrament and "sacerdotalibus tubis." Anyone offering armed resistance to a cause found just by the Church was to be punished by anathema and the refusal of Christian burial.

Pierre Dubois published in 1300 "*Summaria brevis et compendiosa doctrina felicitis expeditionis guerrarum acclitum regni Francorum*," and in 1306 "*De Recuperatione terre Sancte*." In both he advocates the organisation of Christian States for the preservation of peace in Europe. He rejects any temporal supremacy of the Papacy, and in fact considers the whole idea of a universal monarchy absurd. His Federation of States would be governed by a Council of Prelates and Sovereign Princes, and all disputes between States would be settled by an International Court of Arbitration, composed of Judges elected by the Council. The Pope, though no sovereignty over the Princes is attributed to him, is to convoke and preside over the Council and to submit plans for general reform. But here, as in so many of the peace plans of this and later times, the ultimate purpose of organisation is not general peace, but an effective crusade against the infidels in possession of the Holy Land. (Ter Meulen, 101—107).

Another scheme for a League of States against the Turks brings us close to the age of Erasmus. George of Podebrad, King of Bohemia, and Antonius Marini of Grenoble, his adviser and ambassador, were its joint authors. The plan differs from its predecessors in having been actually proposed as the basis of a League between Germany, France, Venice, and Spain. Its alleged object was, as stated above, a crusade, though Podebrad's purpose was perhaps mainly to protect himself, by alliance with the other Powers, against the Pope. It provided for an Assembly (collegium) of Princes, and for a judicial body (consistorium) to settle disputes. No special place in the scheme was assigned either to Pope or Emperor. The omission of the former resulted in its rejection by two of the courts appealed to (Venice and Burgundy), and the only results of Marini's missions were friendly treaties with France and Hungary. One article in the draft submitted to Louis XI. is interesting as a forerunner of



Art. 17 of the Covenant of the League of Nations. It provides that when only one of two conflicting parties belongs to the League, the confederated States shall try to settle the dispute by arbitration, and if this is unsuccessful, the whole League shall at the common expense take up the cause of the member attacked. Further, if both the conflicting States are outside the League, the latter shall intervene to restore peace by friendly means, or, if necessary, by arms.

With all his efforts to convince Popes and Princes of the iniquity of war, Erasmus devised no scheme for a Confederation of States. Like More's Utopians, he thought many alliances a danger rather than a safeguard for peace. In the "*Institutio Principis Christiani*," his doctrine is that war is incompatible with reason and morality. The book contains no specific antidote for war; it is rather an attempt to purify the whole system of government, to substitute the principles laid down by the ancient philosophers and the teachings of Christ for that political opportunism which found its most direct expression in an exactly contemporaneous work, Machiavelli's "*Prince*."

We find no suggestion, then, in Erasmus' writings, for a Council of Princes or for an International Court. The nearest approach he makes to plans such as those outlined above is in his repeated advocacy of arbitration (c). But the reference would be not to a previously constituted college of judges, but to popes, abbots, bishops, wise and upright men, summoned *ad hoc*. For such procedure there were ample precedents even in the Middle Ages. As early as 1176 we find a case of detailed provision for arbitration. The conflicting claimants were the Kings of Aragon and of Navarre, and the dispute was referred to Henry II. of England, with pledges for submission to the final verdict, and an arrangement by which the King of France was to be substituted for Henry in the event of the latter's death (d). Many other cases might be cited when the Sovereigns of the multitudinous kingdoms, principalities and duchies into which the Empire had broken up, called in the Pope, a foreign Prince, a Parlement, or

(c) Cf. "*Querela Pacis*," *Opera Omnia* IV., 636; "Letter to Antony of Bergen," 1514, No. 288, Vol. I., P. S. Allen's edition; "*Institutio Principis*," *Opera Omnia* IV., 609.

(d) See Nys, "*Origines du Droit International*," p. 52.

a University to settle questions of title. To quote perhaps the most famous instance, it was in 1493—that is, shortly before Erasmus became secretary to the Bishop of Cambrai—that Pope Alexander VI. made his famous award, adjudging new lands and ocean, to the east and west of a line drawn through the Atlantic, to Portugal and Spain respectively.

Erasmus could only attribute it to the folly, passions or ambitions of Princes that this method of establishing rights between States was not always adopted. Though the arbiters were the most corrupt and incompetent, he says in one passage (*e*), yet the result would be less harmful than recourse to arms, for “there can hardly be a peace, however unfair, that is not better than even the most just war.” He repeatedly asks how it is that nations calling themselves Christian, united by the blood of Christ, can attack one another on the slightest infringement of a doubtful and negligible right, waging war with a cruelty that might horrify those very Turks whom they profess to despise as infidels and barbarians.

The fault lay not in the people. They knew well, from the poverty and sufferings to which it exposed them, all the vanity and iniquity of war. Those responsible were the rulers, their evil counsellors, and the bands of mercenaries, “dregs of humanity,” whom they kept in their pay. And here Erasmus appeals to a political principle which was to be developed in various ways by Althusius and Bodin and Hobbes—princes originated in the choice of the people, government rested on the consent of the governed. How unreasonable, then, that those set up to guard the people’s welfare should be the source of their greatest woes!

The ideal form of government, according to Erasmus, is absolute monarchy. But this is only best when the monarch is a man of perfect wisdom and perfect virtue. The State can scarcely hope for such a ruler—must generally, indeed, count itself fortunate in mediocrity. Therefore certain checks are necessary. Even in limited monarchy, however, the King is responsible for a great part of the government, and the best way to secure the common welfare is to train him from child-

(*e*) “*Querela Pacis*,” *Opera Omnia* IV., 636.

hood, before he comes to the throne, in the real statecraft—truth, justice and wisdom.

Such is the purpose of the “*Institutio Principis Christiani*.” It was dedicated to the Archduke Charles, afterwards the Emperor Charles V., when the latter, already ruler of the Netherlands, had just become King of Spain (1516). A letter of 1517 (to Fabricius Capito—Froude, p. 186) shows the author in high hopes that his dreams of peace are to be realised:—“I am now 51 years old, and may be expected to feel that I have lasted long enough. I am not enamoured of life, but it is worth while to continue a little longer with such a prospect of a golden age. We have a Leo X. for Pope; a French King content to make peace for the sake of religion when he had means to continue the war; a Maximilian for Emperor, old and eager for peace; Henry VIII. King of England, also on the side of peace; the Archduke Charles ‘*divinæ cujusdam indolis adolescens*.’ ”

The peace was but a lull in the Italian wars, which were soon to break out again, intensified by the conflicts of the Reformation. Writing from Anderlae in 1521, Erasmus records the complete wreck of his hopes: “Oh, what a world! Christendom split in two and committed to a deadly struggle; two young Princes (*f*), each fierce and ardent, each bent on the destruction of the other. Immortal God! Where is the Pope? When anything is to be got for the Church he can command angels and devils, but he can do nothing to prevent his children from cutting each other’s throats” (*g*).

Up to his death, in 1536, Erasmus continued counselling peace and moderation in letters addressed to Princes, Pope and Emperor. He has often been accused of indecision, even of cowardice, in his attitude to the Reformation. The question scarcely concerns us here, but it is not surprising that so ardent a lover of peace should have hesitated to identify himself with the violence of either party. Here, as elsewhere, his attitude was perhaps that of a man who exaggerated the effect of reason on human conduct, but it is difficult to dispute his thesis that,

(*f*) Charles V. and Francis I.

(*g*) Quoted from Froude’s *Life and Letters of Erasmus*, p. 292.

of all differences, those relating to religious dogmas are least susceptible of settlement by arms.

The reasons which justify the great efforts for peace being made in the world to-day are broadly the same as those urged by Erasmus four centuries ago, and there is much in the "*Institutio Principis*," and in his other utterances on peace, that is neither trite nor of merely historical interest. Modern peace movements take the direction of international organisation, but there is still much to be said for the thesis, which formed the basis of Erasmus' work on the subject, that war can only be finally eliminated by the reform of "human nature."



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# INSTITUTIO PRINCIPIS CHRISTIANI.

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## CHAP. III.—THE ARTS OF PEACE.

Although the old writers divided the whole system of State administration into the two arts of peace and war, the first and principal task is to instruct the Prince in matters pertaining to wise government in time of peace. During peace every possible effort should be made to render the arts of war forever unnecessary. In this connection I think the Prince should first be taught to know his kingdom, for which the three best means are geography, history, and frequent visits to country and cities. Let him endeavour then first of all to know the position of his districts and cities, their origin, character, institutions, customs, laws, annals and privileges. No one can heal the body before he knows it. No one can properly cultivate a field with which he is not familiar. In this respect even the Tyrant is most industrious; it is the intention and not the act which distinguishes the good Prince. The physician studies the body that he may more speedily heal it; the poisoner also studies it, but that he may more surely kill it. Then he should be taught to love the country over which he rules, feeling for it the same affection as a good husbandman feels for his ancestral farm, or a good paterfamilias for his household, and to make it his peculiar care to hand it over to his successor, whoever that may be, in a better condition than when he succeeded to it. If he is followed by his children, then he should be guided by a father's duty to his children, if not, by his duty to his country. Let him keep himself aflame with love for his subjects, reflecting that his kingdom is but a huge body of which he is the nobler member, and that they who have entrusted all their fortunes

and all their safety to the good faith of one man deserve consideration. Let him keep before his eyes Kings who considered the advantage of their citizens before their own lives, remembering that the Prince cannot do injury to the State without also injuring himself.

Furthermore he shall do his utmost to make himself loved by his subjects, so, nevertheless, that his authority shall be respected among them. Some there are who strive to win goodwill by incantation and magic rings, whereas no incantation is so efficacious as virtue itself, than which nothing can be more lovable, for not only is it in itself a real and immortal good, but it enlists for its possessor true and undying affection. For this the most appropriate philtre is the maxim that, as he should love who would be loved, so the Prince should bind the people to him, as God binds all to Himself, by His goodness to them.

They also are deceived who court the multitude with gifts, banquets, and vicious indulgence. What they win by such means is not affection, but a mere popular favour, which is neither true nor lasting. Meanwhile they encourage the people's cupidity, which, growing to immense proportions, as it often does, is satisfied with nothing, so that unless all their greed is glutted, there is revolt, and the people is corrupted, not won. Thus the Prince's position in relation to the people is like that of a husband who coaxes his wife's love by flattery, gifts and complaisance, not winning it by virtue and good deeds, as he ought. So at last he is not even loved, and instead of a virtuous and good-mannered spouse he has a disdainful and intractable shrew, who, far from that obedience she owes him, is discontented and rebellious. Thus, too, women who try to inflame men's love by drugs evoke madness rather than the sane passion they had hoped.

He who wishes his people to love him shall show that he deserves love; afterwards he shall consider how he may best win his way to their hearts. His first desire should be to make the best men think most highly of him, and to be lauded by those who have won the praise of all: these should be his intimates, these he should call to council and adorn with honours; these it is whom he should suffer to influence him most. In this way, everyone will soon conceive the highest esteem for the Prince,

and this is the beginning of all good will. Some princes, not so evil in themselves, have roused public hatred for the sole reason that they permitted too much to persons abhorred by the whole population, who judged the character of their ruler from the morals of his favourites. I should further wish that the Prince might be born and educated among the people which he is destined to rule, for friendship best germinates and flourishes when the origin of affection is nature itself. The multitude hates even good qualities when they are unfamiliar, whereas familiar vices are sometimes loved. When the Prince is born and brought up among his subjects, there is a double advantage, for he will be more affectionately inclined towards them, more disposed to regard them as his own people, and they in turn will look upon him with more favour and be more willing to recognise him as their Prince. It is for this reason that I do not like the accepted custom of allying the Prince by marriage with foreign, especially with remote, nations. Race and nationality, and the common spirit they engender, are great aids in winning affection. It is inevitable that part of this benefit will be lost if mixed marriages disturb the native and inherent tendency. But where nature has been the source of mutual affection, this should be strengthened by other means: when this is not the case, the greater effort should be made to court esteem by mutual benefits and by conduct worthy of respect. In marriages the wife begins by obeying her husband, while he sometimes makes concessions and indulges her humour, until, as each comes to know the other, love gradually grows up between them. Matters should be arranged in the same way when a Prince comes from a foreign land to take over the reins of government. Mithridates had learned the languages of all the peoples over whom he ruled, to the number of twenty-two, it is said. Alexander the Great, however barbarous the nations with which he had to deal, began by imitating their culture and customs, thus winning his way into their affections. Alcibiades, too, has been commended for the same thing. Nothing so alienates the affections of the multitude from the Prince as an inclination on his part to spend his time abroad, for they consider themselves neglected by the very person whose special care they wish to be. Moreover, when the taxes levied



are spent away from home, they are regarded as lost, and it seems not so much paying tribute to the Prince as offering booty to aliens. Finally, there is nothing more irksome or pernicious for the country, or more dangerous for the Prince, than distant peregrinations, especially if they are of long duration. It was this, as everyone thinks, that took Philip from us, and inflicted as much harm on his kingdom as the long war with the Guelders.

As the king of the bees is always in the midst of the swarm and never flies forth, like the heart in the centre of the body, so the Prince should always be seen among his people.

As Aristotle wrote in his "Politics," there are two things that more than any others overthrow empires: these are hatred and contempt. Affectionate esteem is the opposite of hatred, authority of contempt. The Prince must therefore study how the first are acquired and the second avoided. Hatred is incurred by cruelty, violence, insults, peevishness, captiousness, rapacity, and is more easily aroused than allayed. Therefore the good Prince must at all costs avoid falling out with his people. Believe me, to lose the favour of the people is to be deprived of a great safeguard. On the other hand, the multitude is captivated by those qualities which, to describe them in a general way, are most foreign to tyranny: clemency, courtesy, justice, civility, benignity. Benignity stimulates loyalty to duty, particularly if the Prince is seen to reward those who deserve well of the State. Clemency invites men conscious of their own defects to higher virtue, holding out hope of pardon to those who are trying to compensate by good deeds for the errors of their past life, and meanwhile provides the blameless with grounds for a pleasing contemplation of human nature. Civility everywhere arouses love, or at least softens hatred, and is indeed the quality in a great Prince which most appeals to the commonalty.

Contempt is incurred most speedily by devotion to sensual pleasures, lust, wine-bibbing, gluttony, gaming, by the encouragement of fools and clowns; in a word, by folly and indolence generally. Authority, on the other hand, is attained by the contrary qualities—wisdom, integrity, temperance, seriousness, and industry. These, therefore, are the attributes by which the Prince who desires to wield real authority among his people

commends himself. Some there are who foolishly imagine that they must inevitably win esteem by making a din and a great show of splendour and luxury. Who can credit the Prince with greatness simply because he decorates himself with gold and precious stones, when everyone knows that he has as many of these as he wants? Meanwhile, what else does he display but the misfortune of his subjects, who must provide the means for his extravagance? Finally, what is the effect of this sort of teaching but a hotbed of all vices? Let the Prince so live that in his life all his nobles and citizens may have an example of continence and frugality. Let him so act in his home as not to be discountenanced by any unexpected visitor. In public he should never be seen unoccupied with matters tending to the advantage of the State. His character is more clearly revealed by his speech than by his raiment. Anything that falls from the Prince's lips spreads abroad among the populace. Therefore he must see to it that what he says savours of virtue and reveals a mind worthy of a good Prince.

We should not disregard Aristotle's advice, that the Prince who desires to avoid odium and to inspire loyalty should delegate unpopular duties to others, and himself carry out tasks that will please. By this arrangement a great part of any inevitable unpopularity will fall upon his administrators, especially if they are otherwise out of favour with the people. On the other hand, gratitude for benefits will accrue to the Prince alone. Let me say this in addition: gratitude for a benefit will be double if it is conferred speedily, eagerly and spontaneously, and if it is further commended by friendly words. If, on the other hand, a request must be refused, it must be done gently and courteously. If punishment must be inflicted, the full penalty prescribed by law should be lessened, and the punishment so imposed that the Prince may appear driven to it against his will.

It is not enough that the Prince should keep himself pure and uncorrupted for the State. He must also endeavour to keep his whole household, his nobles, friends, ministers and magistrates, like himself: they are members of the Prince, and if their vices rouse hatred it will redound against him. But this is most difficult, one will say. It will be easier if he takes pains to

appoint the best people to his household : and if he makes it clear to them that the Prince is most pleased with conduct that tends most to the good of the people. Otherwise it frequently happens that, owing to the neglect or connivance of the Prince, the most vicious men tyrannise in his name over the people : and, while they ostensibly administer his affairs, do most harm to his reputation. Moreover, a bad Prince is less unbearable in the State than a Prince with vicious friends. We can somehow contrive to put up with one Tyrant. It may be comparatively easy for the people to satisfy the greed of one man ; to sate one man's lust ; to glut the ferocity of a single individual : but it is a grievous thing to content a multitude of Tyrants.

The Prince should, as far as possible, avoid all innovation. For though the change may be for the better, the innovation itself gives offence. The constitution of a State, the common custom of a city, laws once accepted, are never altered without disturbance. Anything, then, that can be endured should not be changed out and out, but either tolerated or turned to better use, as convenience permits. On the other hand, the intolerable should be corrected, but gradually and tactfully.

The goal which the Prince seeks to attain is of the utmost importance, for if he is wrong in his aims, he must inevitably wander far from the proper path. It must be his first principle not merely to guard the present prosperity of his State, but to hand it over more prosperous than when he assumed power. There are, however, three classes of good, to speak after the manner of the Peripatetics : first, that of mind ; secondly, that of body ; and, thirdly, external good ; and he must beware inverting their order in such a way as to make external good the chief measure of his country's prosperity. For this should never be considered except in so far as it is consistent with the good of mind and body : therefore let him deem his subjects most blessed, not when they are richest, or in the best bodily health, but when they are most just and moderate, least covetous, arrogant and factious, and most at peace with one another. Let him beware, too, of false names applied to the fairest things, which, indeed, is the spring and source of most of the world's calamities. For it is no true felicity when the people abandons itself to ease and

luxury : nor true liberty when each may do what he will. On the other hand, it is no servitude to live in submission to upright laws. Yet the State cannot be called tranquil when the populace obeys the Prince's every nod, but rather when it obeys good laws and a Prince who governs himself in accordance with them. Nor do the same advantages, the same rights, the same honour for all, mean equality : nay, sometimes this entails the greatest inequality. The Prince about to take over the government should be advised that the best hope of the State lies in the proper education of its boys, as Xenophon wisely taught in his *Education of Cyrus*. Youth yields to any system of training. Therefore particular attention should be paid to public and private schools and to the instruction of girls. Children should be placed at the outset under the most estimable and uncorrupt teachers, in order that they may acquire knowledge of Christ and at the same time that enlightened learning which is to the best interest of the State. If this is done, there will be no need for many laws or penalties, for citizens will of their own accord do what is right.

Such is the effect of education, that a man, according to Plato, rightly instructed becomes almost a divine being, but, if wrongly educated, degenerates into the most savage beast. Now there is nothing so important for the Prince as that he should have the best possible subjects. They should then at once be made familiar with the best influences, for any music is sweet to the accustomed ear. And nothing is more difficult than to root out of man what from long use has become second nature. None of these things, however, will be too difficult if the Prince's own conduct is always irreproachable. It is tyranny and trickery to treat the common people as trainers deal with a savage beast ; first observing how it is soothed or angered, then, as Plato says, enraging or soothing it as they desire. This is but taking evil advantage of the mob's impulses, not attempting its betterment. But when the people are intractable and rebel against their own good, then you must wait your time and win them gradually to your purpose by art or well-intended ruse,—as wine, which is at first easily controlled, softly glides throughout the veins, and ends by bringing the whole man under its dominion.



If the tumult of affairs or public opinion diverts the Prince from his plan and compels him to serve the time, he must never give up while he has strength for a new effort, ever trying to effect by other methods what has not at first succeeded.

## CHAP. IV.—ON TRIBUTES AND TAXES.

Turning over the old histories, we find that many seditions have risen from immoderate taxation. Therefore the good Prince will vex the people as little as possible with such measures. Let him rule, if he can, with no expense to the State. The office of Prince is too sublime to be made a mercenary one. And if they love him, the Prince himself has whatever his subjects possess. There were Pagans who won successes for their States, yet brought nothing but glory home to their palaces. Two, indeed, despised even that—Fabius Maximus and Antoninus Pius. How much more should the Christian Prince be content with the knowledge of doing right, especially as he serves One who most amply rewards every good deed! There are some whose every effort in the service of Princes is to find ever new pretexts for extortion, and who, so doing, think they are furthering the Sovereign's interests, as though Princes were their subjects' enemies. To listen freely to such men is to be guilty of conduct most incompatible with the royal title.

The Prince's task should be to reduce to a minimum his demands on the people, and it is to this that he should devote his thought. The best way of increasing revenue is to put a stop to needless expenditure, to abolish idle ministries, to avoid wars and the travels which are most like them in their effects, to restrain the rapacity of officials, and to strive for the proper administration, rather than the extension, of the kingdom. Otherwise, if the Prince measures his levies by his avarice or ambition, what end or limit will there be to his exactions? For cupidity is infinite, and it forever presses and extends what it has begun, until, as the old proverb has it, the taut rope snaps, and the people, its patience exhausted, breaks out into that sedition which has overthrown some of the most flourishing kingdoms. But when necessity urges a levy, then it is for a good Prince to effect it in such a way as to inflict the least possible suffering on the poor.

For it may be good to summon the rich to frugality, but to reduce the poor to famine and slavery is both inhuman and unsafe.

The good King, when he desires to increase his retinue, to secure a magnificent marriage for his grand-daughter or sister, to make all his children peers, to enrich his nobles, to show off his wealth to the nations by travelling, will pause long to reflect how inhuman it is that, to make these things possible, so many thousands of men with wives and children should run into debt, be driven to despair, even die of famine at home. I should not count among human beings those who extort from paupers what they lavish on prostitutes or gaming. Yet there are some who think even this their right.

He will also bear in mind that measures which have once been introduced by taking advantage of temporary circumstances, and which seem to profit Prince or nobles, can never be abolished; though when the necessity for the demand is past, not only should the burden be lifted from the people's shoulders, but the earlier expenditure should as far as possible be replaced. Therefore he who loves his people will guard against the introduction of a harmful precedent. As for one who rejoices in their ruin or is indifferent to it, he could not be less a Prince, whatever his title.

He should endeavour, meanwhile, to avoid excessive inequality of riches, not that I should wish anyone to be forcibly deprived of his goods, but steps should be taken to prevent the riches of all the people being concentrated in a few persons. Plato wants his citizens neither too rich nor very poor, for a pauper is no asset, and the rich man refuses to turn his ability to the public account.

At times, indeed, Princes are not even enriched by exactions. To realise the truth of this, think how much less our ancestors levied on their subjects, how much more beneficent they were, yet how much greater was their abundance. For a great deal of revenue melts away between the tax-gatherer and the Treasury, and only the smallest portion of it reaches the Prince.

A good Prince will tax least commodities used by the humblest of the people, such as corn, bread, beer, wine, clothing, which are indispensable for the support of life. These are the very things which are now most burdened, and that in several ways, first by

the heavy extortions of the tax-farmers, then by import duties, which have also their contractors, and lastly by the monopolies, which condemn the poor to pay in order that the Prince may realise a trifling gain.

Therefore, as I have said, the Prince's chest is best enriched by restricting expenditure, and the old proverb holds that " Parsimony is great tribute." But if some taxation is inevitable for the people's good, tax barbaric and foreign goods which are not wanted as necessities of life but as luxuries and dainties; and such as are used only by the wealthy, like fine linen, silks, purple, pepper, spices, ointment, gems and everything else of this nature. Thus, only those will be inconvenienced whose fortunes are able to bear it; they will not be reduced to indigence by the loss, but may be taught frugality, so that the loss of money may be balanced by the improvement of their mode of living.

In minting his coinage the Prince will keep the faith which he owes to God and the people, not permitting himself acts which in others he visits with the severest penalties. Here there are four ways of robbing the people, as we had sufficient occasion to see after the death of Charles, when a long anarchy, more deplorable than any tyranny, afflicted your realm. These are mixing the metal of the coinage with base material, lessening the weight of coins, clipping them, and raising or lowering their value as either operation is thought likely to profit the Treasury.

## CHAP. V.—ON PRINCELY BENEFICENCE.

Since the proper glory of good Princes lies in good deeds and kindness, with what countenance can they claim the title whose every thought is to better themselves at the expense of the commonwealth? The Prince will therefore employ his ingenuity and astuteness in discovering how he can deserve well of all, which is not merely a question of giving. He will aid some by liberal gifts, encourage others with his favour, deliver others from oppression, and hearten others with sympathy, counting that day lost on which he has not done someone a service.

But the Prince must not be rash in his liberality. There are some who mercilessly extort money from worthy citizens to pour it out upon fools, informers and panders. Let the people see that the Prince is liberal rather to those who have given of their best in the public service. Let your rewards go to the virtuous, not to favourites. The benefits which the Prince confers should not be accompanied by loss or injury to anyone. For to rob one in order to enrich another, to tread on one in order to raise up another, so far from beneficence, is rather double evil, especially when it is the unworthy who gain what the worthy lose.

We may recall here that in the poets the gods never came without doing some great good to those by whom they were received. When, on the visit of a Prince, his subjects hide their more elegant furniture, shut up daughters who are fair, send away their young sons, conceal their wealth, and in every way reduce their establishments, does not this show what opinion they hold of the Prince, since they adopt the same measures as against an enemy or brigand, since on his coming they fear for themselves the very dangers which it would be his duty to guard them from in the event of conspiracy or revolt? From others they fear trickery, but from him they fear violence as well; one man has a beating to complain of, another a virgin daughter abducted, another a wife seduced, another the refusal of his wretched wages.



How far, forsooth, is such a visit from the poets' picture of the coming of the gods! Here the most flourishing cities have most reason to distrust their Prince; on his coming, the baser sort push themselves forward, whereas the best and wisest citizens take precautions and restrict themselves, showing clearly by their acts, though they say nothing, their estimate of the monarch. "But," the Prince may reply, "I cannot restrain all my servants; I am doing all that I can." Make your servants understand that you insist on moderation on their part. Your people will only believe that excesses are against your will if you do not suffer them to be committed with impunity.

For a Pagan ruler it was perhaps enough that he should be kind to his own and merely just to strangers, but a Christian Prince should regard no one as a stranger, except such as are alien to Christ's sacraments, and should not even inflict injury upon these. He will consider his own subjects first, of course, but do good to all whom he can serve.

Though it must be the Prince's unceasing study that all shall have justice, yet in Plato's opinion he should protect strangers even more carefully than his subjects. For visitors are far from their friends and relations, whence they were thought to have Jupiter (called *Xenius* for this reason) as their avenger.

## CHAP. VI.—ON ENACTING OR AMENDING LAWS.

The best laws under the best Prince are what render a city or kingdom most prosperous, for the State is then most happy when the Prince is obeyed by all, when he himself obeys the laws, and when the laws themselves are based on the standard of justice and truth, and aim only at the benefit of the commonwealth.

A good and wise Prince is indeed a kind of living law. He will therefore endeavour to enact not many but the best possible laws, most calculated for the welfare of the State. For a well-ordered State under a good Prince and pure magistrates very few laws will suffice: under other conditions, no number will be enough. It is not the best treatment for a sick man to have an untrained physician prescribing drug on drug.

In the enactment of laws the first precaution is to see that they do not savour of gain to the Treasury, or of private profit to officers of State, but that they are blameless in motive and tend to the public welfare, a welfare judged not by vulgar opinion but by that standard of wise discernment which must be ever present in the King's councils: otherwise they will not even merit the name of law, for even the Pagans admit that the word implies justice, equality, and regard for the universal good. The mere decisions of a Prince are not *ipso facto* law; law is what has been approved by a good and prudent Prince who hates all that is not straightforward and for the good of the State. But if the standard to be observed in correcting irregularities is a distorted one, with laws so made, how can you escape perverting even what was good? Plato also would have laws as few as possible, especially on minor matters such as agreements, trade, taxes.

For the safety of the State is no more secured by a multitude of laws than by a multitude of medicines. When the Prince is a righteous man, and the magistrates perform their office, there is no need for many laws: when this is not so, the laws are abused and made the bane of the State, since even where wisely made they are turned to evil use by dishonest administrators.

Just censure has been passed on Dionysius of Syracuse, whose tyrannical plan it was to heap law on law, and then to permit the people to break them, and so render them all liable to his penalties. But that was not making laws, but laying traps.

Epitades, too, is deservedly condemned for passing a law permitting all to leave their property as they chose, in order that he might disinherit the son whom he hated. At first the people did not understand the ruse, but in the end the law was the cause of great damage to the State.

The Prince should make such laws as not merely decree penalties for the guilty but exert a persuasive influence against crime. Therefore they err who think that statutes should be briefly worded, to convey an order only and not to teach; their real object is to deter from crime by appealing to reason more than by punishment. It is true that Seneca does not accept Plato's view on this question, but this is boldness rather than discernment.

Moreover, young men should not be permitted to discuss the justice of a law, and older men but sparingly. Yet, though it is not for the commonalty rashly to criticise the laws of Princes, those passed should be such as will meet the approval of all good men, for even the humblest have understanding. M. Antoninus Pius has been commended for never adopting a measure which he did not try to recommend to everyone by letters setting out the reasons why he judged it expedient for the State.

Xenophon, in his *Economics*, has pertinently said that the other animals were taught to obey chiefly by two methods: by giving them food, if they were of the less intelligent sort, or petting them, if of nobler nature, like the horse, and by blows, if they were stubborn, like the ass. But as man is the noblest of all animals, he should be induced to obey the laws not so much by

threats and punishment, as by rewards. Let laws, then, not merely assign penalties for delinquencies, but also by the offer of reward tempt men to conduct themselves as good citizens. Such, we observe, were many of the enactments of the ancients. Anyone who had fought bravely in war hoped for reward, and if he fell his children were nurtured at the public expense. Anyone who saved the life of a citizen, drove an enemy from the walls, or served the State with prudent counsel, was rewarded for his good offices.

Although it is the duty of a good citizen, even when no reward is offered, to follow what is best, it is nevertheless expedient to hold out such inducement, in order to inspire those not yet confirmed in this direction with zeal for virtue. Men of noble mind are most attracted by honour; those of base desires, by gain. All these sanctions, then, will find their place in a law—honour and ignominy, gain and loss. Of course, any that are utterly servile or beastly in nature must be taught obedience by chains and lashes.

Teach your subjects from childhood this sense of honour and ignominy, bringing it home to them that rewards are to be won, not by wealth or high birth, but by right deeds. Above all, let not the Prince direct all his vigilance to punishing offences committed; let his arm be rather to guard against the commission of any offence deserving punishment. For as the man who prevents disease is a better physician than he who cures it with medicines after it has been contracted, so it is far more excellent to prevent crimes than to punish them. This will be accomplished if he can remove, or at least diminish, the causes from which he has observed most misdeeds to spring. First, then, as I have already said, it is from depraved opinions, as from poisoned wells, that the greatest part of villainy flows. Therefore it is most important that your subjects should be instructed in the best views of things, then that your magistrates should be not only wise but pure. Plato is right when he says that no effort should be left untried, no stone, as they say, unturned, before recourse is had to the supreme penalty. Strive to conquer the will to evil by teaching, then deter the would-be criminal with the fear of the Divinity who takes vengeance on malefactors, and with the threat of

penalties. If these measures are of no avail, punishment must be inflicted, but milder forms of it, such as remedy the evil without destroying the man. Finally, if this course fails, then, as a hopelessly incurable limb is cut off lest the sound parts be infected, so the recalcitrant must be visited with all the rigour of the law.

A skilled physician never operates or cauterises if he can drive out the infection with plaster or potion, and never employs even these unless compelled by the course of the disease; so the Prince will try every remedy before resorting to capital punishment, remembering that the State is a body, and that no one amputates a member if there be any other means of restoring it to health.

And as an honest doctor preparing his medicines has no thought but how the disease may be conquered with least danger to the invalid, so the good Prince, in enacting his laws, will make the public advantage his sole aim, striving to remedy with as little damage as possible abuses to which the people is subject.

A great number of crimes are due to the fact that everywhere a premium is put upon wealth, while poverty is despised. The Prince will therefore see to it that his subjects judge one another by the virtue of their lives rather than by their possessions. He and his household must provide the first example. For if the people see the Prince making show of his riches, and know that with him the richest man wins most favour, and that money opens a clear path to magistracies, honours and offices, is there any wonder that they will be incited to the acquisition of wealth, be the means honest or dishonest?

And, to speak more generally, most of the rabble in every State owe their condition to idleness, which everyone seeks in different ways, while those who have once become accustomed to it will resort to any evil device rather than lose the means of supporting it. The Prince, therefore, will strive to have as few idlers as possible about him, either forcing his followers to work or banishing them from the kingdom.

Plato would drive all beggars out of his State. But any that are broken with age or disease and have no relatives to support them should be cared for in public institutions for the aged and



infirm. No one who is in good health and content with little has any reason to beg.

The Massilians refused to admit into their city priests who bartered their so-called relies from town to town, winning ease and luxury under the cloak of religion. It would perhaps be well for the State to limit the number of monasteries. For here also is a sort of idleness, especially in the case of monks who, leading by no means blameless lives, pass their days in slothful inactivity. What I have said about monasteries applies also to colleges.

To this class also belong contractors, hucksters, usurers, brokers, procurers, caretakers, gamekeepers, and the whole flock of servants and attendants that some maintain merely to advance their ambitions. These, when they have not enough of all things to satisfy the clamourings of extravagance, companion of sloth, resort to evil practices. In military service also there is a busy sort of idleness, which is much the most pestilential of all, being at once the destruction of all good things and the source of the vilest perversions. If the Prince excludes such seed-beds of crime from his dominions, there will be much less for the laws to punish. I would therefore point out in passing that honour should be attributed to useful employments, and slothful ease not endowed with the title of nobility. Not that I would deprive the high-born of their honours, provided they are made in the image of their fathers and excel in the virtues which first won their nobility. But if, like so many we see to-day, they give themselves up to lazy inactivity and to effeminate pleasures, unskilled in any useful vocation, pleasant gluttons, strenuous gamblers, to go no further into their obscenities, why, I beseech you, should this sort of man be set above the shoemaker or the farmer? For in the old times the patricians were granted leisure from the meaner trades not that they might play the fool, but to learn the science of government.

Let it, then, be no slur for wealthy citizens or patricians to teach their children a sedentary occupation. Engaged in study of the sort, young men will be restrained from many a vice; even if there is no need for them to practise their trade, it burdens no one. But if (such is the instability of human affairs) they should

come to want, then, as the proverb has it, skill will find sustenance in any soil or station.

The ancients well knew that most evils sprang from extravagance, and passed sumptuary laws against it, appointing censors to restrain immoderate expenditure on banqueting, raiment, or building. If it be thought a hardship that any man should be restrained from using or abusing his own possessions at pleasure, reflect that it is far worse to let extravagance so undermine morality as to make capital punishment necessary, and that it is more humane to compel frugality than to wink at vices which end in ruin.

There is nothing more pernicious than a system which makes offences a source of profit to the magistrates. For who will do his utmost to prevent crime when, the more criminals there are, the more money he puts into his pocket? It is a fair dispensation, and one frequently adopted in former times, that fine-money should go in part to the person injured, in part to the public chest, and, in the more odious crimes, partly to the informer. Odiousness, however, is not to be measured by any private prejudice, but in proportion to the damage to the State. The first object of law is that no man, poor or rich, noble or plebeian, slave or free, magistrate or private person, should suffer injustice. But it should lean rather to the side of protection for the weak, because it is the lot of the humble to be more exposed to wrongs. Therefore let what is wanting in the protections of fortune be compensated for by the humanity of your laws. Let the penalty for an outrage on a poor man be greater than that for an offence against the rich, for corruption in a magistrate greater than that for perfidy in a plebeian, for the misdeeds of a patrician greater than that for the sins of a commoner.

There are, according to Plato, two sorts of punishment. In the first the penalty must not be out of proportion to the offence (and this is another reason why the supreme punishment should not lightly be inflicted); nor should the gravity of the act be estimated on the basis of our cupidity, but by just and pure standards. Why is simple theft everywhere punished with death, whereas adultery goes almost scot free, and that in contravention of all ancient law, unless it be that everyone puts too high a value on money,

estimating the loss of it rather by his emotions than by its real effects? But this is not the place to account for the fact that the adulterer is now treated so leniently, whereas under the laws of former times he suffered the supreme penalty.

The second class, which he calls exemplary, should rarely be employed, and the method should be to deter others, not so much by the savage nature of the penalty, as by its novelty. For there is nothing so terrible that familiarity will not breed contempt of it, and nothing could be more disastrous than to make the people familiar with punishment.

As new remedies for diseases are not to be tried if there are old ones to meet the case, so new laws should not be enacted if old ones already exist for remedying the evils of the State.

Useless laws, which it would be difficult to abrogate at once, should be allowed to fall into desuetude, or should be amended. For though it is a dangerous thing to alter the laws, yet, as it is necessary to fit the treatment to the condition of the body, so the laws must be brought into harmony with the present condition of the State. Institutions wisely established may now be wisely abolished.

Many laws good in their inception have been adapted by dishonest officials to the most unworthy purposes. Nothing is worse than a just law bent to serve corrupt designs. The Prince, therefore, should not be deterred by possible loss to the fiscus from abolishing or amending such laws. For that is no gain which is inseparable from a loss of honour, especially when the laws in question are of such a character that their abrogation will be greeted with applause. Nor let the Prince be deceived by the fact that laws of this sort have become an established institution in many places and have taken root in long-standing custom. For no measure is a just one merely because many men accept it; on the contrary, the more inveterate a wrong is, the more zealously it should be attacked. To quote one or two examples, it is the law in some places for a prefect to take over, in the name of the King, the possessions of a stranger dying within his jurisdiction: this rule was useful when it was established, for it prevented persons with no right from claiming the goods of a foreigner, and they remained in the hands of the prefect until

legal heirs appeared; but now this has been villainously abused, so that, whether or not an heir appears, the foreigner's property escheats to the fiscus.

That also was once a beneficial enactment which ordained that the Prince, or a magistrate on his behalf, should seize anything found in the possession of a thief, obviously to exclude an indiscriminate right of claiming it, which might result in its being fraudulently appropriated by some person other than the real owner. As soon as it was established to whom the property really belonged, it was restored. But there are some now who consider anything they find in possession of a thief as much their own as if it had come to them as part of their patrimony. They understand well enough that such a practice is insolently unjust, but knowledge of what is right is overcome by greed.

The same may be said regarding the rule established long ago of having prefects on the frontiers of kingdoms to superintend imports and exports, and to make it possible for the merchant or traveller to pass to and fro unmolested by brigands. So, if a robbery occurred within the limits of his territory, every Prince saw to it that the merchant should not have to bear the loss nor the robber go unpunished. It was perhaps as a mere courtesy that the merchants began giving small sums of money for this protection. But now for this sort of impost the traveller is everywhere held up, foreigners are harassed, traders robbed, and, though the tax grows every day, nothing is said about protection. The whole object of the usage as it was first introduced has been forgotten, and though it was a wholesome measure in the beginning, it has been transformed by vicious administration into absolute tyranny.

There was an old law that things cast up from a shipwreck should be taken over by the prefect of the sea, not that they might come into his or the Prince's ownership, but as a provision against their being seized by persons advancing unjust claims. They became public property only if no one appeared with good title. But nowadays in some places the Prince takes as his own everything lost at sea in any manner whatsoever, thus proving himself more implacable than the sea itself, for he comes like a second tempest to snatch away what the first has left to its



wretched victims. See, then, how everything has gone awry! The thief is punished for having taken what was another's; but the magistrate appointed for the very purpose of preventing it does the same thing, and the owner is twice robbed, the second time by one the whole object of whose position is to prevent loss to anyone. Traders, again, are most vexed and despoiled by officials set up for the purpose of protecting the traveller from molestation and brigandage. Property is held back from its owners by officials whom the law has set up to stop its appropriation by the unentitled. There are many institutions of this sort existing in many nations, not less iniquitous than iniquity itself. It is not my purpose to censure any particular State; I have mentioned the above abuses, common to almost all nations and condemned by all, merely as instruction. Some of them, indeed, cannot be abolished without difficulty, but their abolition wins favour for the Prince, and, what should never be considered second to mere gain, a reputation for fair dealing.

As we have said of the Prince, so, too, of the law—it should be thoroughly democratic and just; otherwise, as has been so well said by the wise Greek, laws are nothing but spider webs, easily broken through by the greater birds, ensnaring only flies.

Like the Prince, the law should always be more ready to forgive than to punish, both because this is more generous in itself and more nearly approaches the law of God, Whose wrath is but slowly roused to vengeance; and because if a guilty person escapes, he may be brought back for punishment, whereas one wrongly condemned is beyond assistance. For even when he does not perish, who can estimate another's suffering?

We read that there have been, not Princes, but Tyrants (may their example be shunned by the Christian Prince) who estimated crimes by their own inconvenience; to them it was merely a trifling theft when a poor man was stripped of his goods and driven with his wife and children into chains or beggary, but a heinous outrage meriting the worst tortures when the royal chest or a rapacious quæstor was defrauded of a single coin. And they cried out "*lèse majesté*" if anyone murmured against the most tyrannous Prince, or spoke but a little too freely of a corrupt magistrate, though Hadrian, a Pagan Emperor, not otherwise



entitled to a place among good rulers, would not hear an accusation of *lèse majesté*, and even the savage Nero paid little attention to delations under this head. There was yet another, who abandoned all such charges, saying: "In a free State tongues should also be free." There are no offences, therefore, which the good Prince will more readily pardon than those constituting a private wrong to himself. Who can more easily despise such pin-pricks than the Prince? Vengeance is easy for him, therefore it is hateful and inglorious. Moreover, as it is proof of a weak and base mind, nothing is less in keeping with the princely character, which should be nobly magnanimous. Yet it is not enough for the Prince to abstain from all baseness; he must also be free of the suspicion or appearance of it. Therefore he will consider, not merely what the offender against the Prince deserves but what others will think of the Prince, and out of respect for his dignity and regard for his good name will sometimes forgive one unworthy of pardon.

This, you exclaim, shows too little consideration for the majesty of Princes, a quality which it is most important for the State to keep sacrosanct and inviolate. On the contrary, there is no better way of adding to their greatness, if the people understand that they are so alert that nothing escapes them: so wise that they understand wherein lies the true majesty of a Prince: so merciful that they will avenge no wrong to themselves unless the interest of the State demands it. The pardon granted to Cinna where so many punishments had been of no avail added lustre and security to the majesty of Cæsar Augustus. He alone is guilty of *lèse majesté* who weakens what constitutes the Prince's true greatness; that is to say, his moral virtues and the prosperity which his wisdom has won for the people. It shows complete misunderstanding of the true majesty of a Prince, to imagine it augmented by weakening the laws and diminishing public liberty, as though the Prince and the State were two different things. But if those things which nature has joined are to be set off against one another, let not the Prince compare himself with any one of his subjects, but with the whole body of the State. Thus he will see how much more important is the State, embracing as it does so many excellent men and women,

than the single person of the Prince. Even if there were no Prince, the State would still be a State. The greatest have flourished without a Prince, for example the Roman and Athenian democracies. But there can be no Prince without a State; in a word, the Prince presupposes the State, the State does not presuppose the Prince. What is it that alone makes the Prince, if not the consent of those who obey him? The man who is great in himself, that is, great in virtue, remains great even when the throne is taken from him. It is clear then, that it is only the most perverted judgment that measures the dignity of a Prince in terms unworthy of his high position. Men call him a traitor (for they would make this the most hated epithet) who, seeing the Prince turn aside to practices which are neither honourable nor safe for himself, nor beneficial to the State, calls him back with outspoken counsel. But is it true that the man who corrupts the Prince with plebeian notions, urges him to sordid indulgences, to gluttony, gaming and other disgraceful occupations, is thereby ministering to the dignity of the Prince? They call it loyalty when, to flatter him, his stupidity is humoured; treason, when anyone opposes their evil designs. None is so little a friend to the Prince as the man who by base flattery deludes him, turns him away from the right, involves him in wars, induces him to rob the people, teaches him the art of tyranny and makes him an object of hatred to every honest man: this is the true treason, worthy of the severest punishment. Plato would have his νομοφύλακας, his officers appointed to enforce the laws, the most uncorrupt of men. There is no one whom the Prince should punish with more severity than corrupt guardians of the laws, though he himself is first guardian. The laws should therefore be few, just, and pertinent to the good of the State; they should also be thoroughly well known to the people, for which reason the ancients exhibited them in public written out upon white tables, that they might be visible to all. It is a vile practice to use the laws as nets, as some do, enmeshing as many as they can, not thinking of serving the State, but, as it were, trapping game. Finally, let them be expressed in open and clear language, that there may be no great need of that most avaricious breed of men who call themselves

jurisconsults and advocates. This profession was once indeed confined to the best men, offering, as it did, much honour and little profit, but now it also has been corrupted by that covetousness which vitiates all things. Plato says that whereas the law is most supreme under the best Prince, the worst enemy is the despot who subordinates it to a single will.

## CHAP. VII.—ON MAGISTRACIES AND OFFICES.

That same integrity which the Prince himself exhibits, or something very close to it, he should demand from his officials. Merely to appoint magistrates is not enough; it is of the greatest significance how he appoints them; and he must be vigilant that they perform their office with no taint of corruption. Aristotle leaves us the prudent and authoritative warning that it is vain to enact good laws if there is no one to carry them out, for the best enacted laws are sometimes turned by corrupt magistrates to the ruin of the State.

Though the magistrate should not be selected for his wealth or birth or age, but rather for his discernment and integrity, yet it is more fitting that men of advanced years should be called upon to fill offices upon which the safety of the State hangs, not only because old men, owing to their experience, have more prudence and more control over their desires, but also because age wins for them a certain authority with the masses. It is for this reason that Plato would not have a priest under sixty; nor appoint custodians of the law under fifty, or, on the other hand, over seventy. For after the prime, there is a decline of life, which is entitled to discharge and release from all public duties. The dance is a thing of beauty when it is measured and harmonious, but an absurd spectacle when it becomes a chaos of voice and gesticulation—so a city or kingdom is a magnificent object, if every man has his place assigned to him and performs the duty attached to it, that is to say, if the Prince follows a policy worthy of himself, the magistrates do their part, and the people, granted good laws and upright magistrates, obey them. But when the Prince seeks only his own interest, and the magistrates do nothing but prey on the people, and when the latter do not obey just laws, but obsequiously bow to every whim

of Prince or magistrate, then there can be nothing but the most shameful disorder.

The first and most ardent study of the Prince must be to serve his State, and there is no better way of doing this than by appointing as magistrates and officers men who excel at once in purity and in zeal for the public service.

What is the Prince but the physician of the State? But it is not enough for a physician to have skilled apprentices if he also is not skilful and alert. So too, the Prince must not only have honest magistrates; he himself must be above reproach, that he may both choose and correct them.

The divisions of the mind are not all of equal importance; some rule, some obey; as for the body, it obeys only. So it becomes the Prince, as the highest part of the State, to be wisest of all and freest from gross passions. Next to him are the magistrates, who obey in part and rule in part, obeying the Prince and ruling the people.

The happiness of the State, therefore, lies chiefly in the uncorrupt appointment of magistrates and officials. Let there be, further, a legal action for corruption in office, just as in old time there was an action for extortion. Finally, let the severest kind of retribution be decreed for convicted officials.

The uncorrupt appointment of magistrates means that the Prince chooses not the persons who pay most, who bribe most unscrupulously, who are most closely related to himself or most suited to his habits, desires and lusts, but those who are most blameless in life and most fitted for the duties of the office. When the Prince's sole object is to sell offices at the highest price, what can he expect of his officials but that they will sell them again, patching up their loss by the first means at hand, and trafficking in administration just as they have in commerce! Nor should this be considered a whit less harmful for the State, because by most deplorable custom it has become the accepted practice in many countries. Even among the Pagans it was condemned, and imperial laws were passed assigning princely salaries to the presidents of Courts in order to deprive them of any excuse for seeking their own profit.



Formerly a corrupt judgment was a serious crime; but how can a Prince punish a judge who has been bribed to pronounce a decision or to refrain from doing so, when he himself has sold the judgeship, thus giving his judge the first lesson in corruption? He must treat his magistrates as he wishes them to treat the people.

Aristotle in his *Politics* warns us that the first thing to be avoided is making the magistracies a source of profit to those who hold them. Failure in this respect involves doubly regrettable consequences, for the most avaricious will always bribe or force their way into office, and the people are subjected to the twofold calamity of being excluded from honours and deprived of their wealth.

## CHAP. VIII.—ON TREATIES.

In concluding treaties, as in other things, the good Prince will look only to the public advantage. When the Prince thinks it more profitable to injure his people's interests, his agreements are not treaties but conspiracies. Such a Sovereign makes two peoples of one, distinguishing governor and governed, one losing where the other gains. Where this occurs, you have no State. Between all Christian Princes there is the closest and most holy bond of union in the very fact that they are Christians. Why then conclude so many treaties daily, as if everyone were the enemy of everyone else, and we must effect by conventions what Christ cannot achieve? When business must be carried on by incessant written agreements, it is proof that good faith is lacking, and we see many law-suits on contracts entered into for the very purpose of avoiding suits. When there is good faith, and the parties to a transaction are honest men, there is no need of hard-and-fast bonds; on the other hand, when the matter is one between rascals, their very bonds provide the materials for litigation. So between good and wise Princes, even where there is no treaty, there is steadfast friendship: but where Sovereigns are foolish and evil-inclined, the treaties which were designed to make war impossible are the cause of war, for someone is always complaining that one or another of their innumerable articles has been violated. The usual purpose of a treaty is to end war, but nowadays the name is applied to an agreement to carry it on. Such leagues are but war measures; wherever expediency beckons, there an alliance is formed.

Such should be the good faith of Princes in the fulfilment of their obligations, that their simple promise is more sacred than any oath by another. How base then not to abide by a treaty

accompanied by forms of the utmost solemnity among Christians ! Yet we see this happening every day ; it is not for me to say whose the fault, but assuredly someone is to blame. If some portion of a treaty is violated, we should not forthwith consider the whole instrument annulled, lest we seem to catch at an opportunity of withdrawing from the alliance. Rather should we try to mend the breach with the least possible damage : it may even at times be expedient to connive at trifling infringements, for an arrangement even among private persons cannot long survive if the parties insist upon the letter of every term. You must not at once take the course dictated by anger ; the public interest is to be considered. The good and wise Prince will make every effort to keep peace with all men, but especially with his neighbours, who, if incensed, can do most harm, but as friends are most useful ; nay, without mutual intercourse with them, the State cannot even continue to exist. Moreover, it is easy to establish and maintain friendship between peoples who are linked by community of language, propinquity of territory and similarity of character and customs. Between some nations there is so great a difference in all things, that it is much wiser to abstain from all commerce with them than to be bound by too close an alliance. Some are too far away to be of service even if so disposed. Finally, there are some so captious, so perfidious and insolent, that, even as neighbours, they are useless for purposes of friendship. The wisest course with these will be neither to make war against them, nor to join in any very close league or alliance with them, for war is always ruinous, and alliance with some peoples is scarcely more sufferable than war.

This, therefore, will be one part of the royal wisdom, to know the character and customs of all peoples, a knowledge which he will acquire partly from books, partly from the accounts of scholars and experts ; he need not travel like Ulysses over all lands and seas. For the rest, it is difficult to lay down any definite rules. This in general may be said, that he should not enter into too close alliance with peoples estranged by an alien faith, like the heathen, nor with those whom natural divisions, such as mountains or seas or vast distances, separate from us. Such we should neither join with nor attack. Many examples

might be cited in support of this principle, but one, close at hand, will suffice. France is assuredly in all respects the most flourishing of States; but its prosperity would be infinitely greater had it never attacked Italy.

## CHAP. IX.—ON THE MARRIAGE ALLIANCES OF PRINCES.

In my opinion it would be most expedient for the State if Princes sought their marriage alliances within the limits of their own kingdoms, or, if they must cross the frontier, with neighbours, and only those neighbours who are likely to be faithful friends. But it is not fitting, they say, for the daughter of a King to marry any but a King, or the son of a King. This is merely the personal desire to advance one's kin, and should be furthest from a Prince's thoughts. Suppose his sister marry one less powerful,—if this be for the common good, what then? His disregard for the rank of his sister's marriage should bring him more honour than if he had set the desire of a mere woman above the interests of his people.

A Prince's marriage is really his own concern, yet it is made the most vital of human affairs, and we see frequent modern repetitions of Helen's story. If you would make a choice worthy of a Prince, choose your consort from among all women for uprightness, modesty and wisdom, one who will be an obedient wife to her Prince, and bear him children worthy both of their parents and the State. Whatever her birth, the woman who will make a good wife for the Prince is good enough. It is admitted that nothing is so universally important as that the Prince should love his people and be loved by them. In this the prime factors are common nationality, similitude of body and mind, and a certain fragrance springing from an inborn affinity of spirit; but much of this sympathy perishes when its elements are destroyed by a marriage between unlikes. It can hardly be possible either for the State completely to recognize those born of such a marriage, or for those so born to devote themselves whole-



heartedly to the State. Yet such alliances are commonly regarded as the adamant chains of general peace, though experience itself shows that they are the sources of our greatest woes. One party complains that a term of the betrothal pact has been disregarded, or, taking some offence, withdraws the bride: the other, changing his mind, repudiates his first betrothal and marries another: there is always some ground for dispute. But what is all this to the State? If Princes could secure peace for the world by marriage alliances, I could wish each of them six hundred wives. But of what importance was the marriage-pact when James of Scotland a few years since invaded England? Sometimes after long and violent hostilities and innumerable disasters, a marriage is arranged which settles the conflict, but only because both sides are worn out by their sufferings. The duty of Princes is lasting and general peace; to this purpose let them combine their councils. Though marriage may win peace, it assuredly cannot win perpetual peace. One party dies, and the chain of concord is broken. But if peace were concluded on the proper basis, it would be solid and lasting. Some, however, will say that the union may be made eternal by the propagation of children. Is it not true that the closest relations are those who fight most? Nay, from this very propagation spring changes in kingdoms; the right to rule shifts from one to another, something is taken away in one place and added in another, all of which gives rise to the gravest disorders. These, then, so far from being the means of preventing wars, make them more frequent and terrible. For while kingdom is linked with kingdom by marriage contracts, whenever one party takes offence, he appeals to his rights of relationship to draw others in, and so on the slightest offence Christendom moves to arms, and the displeasure of a single man is assuaged with a deluge of Christian blood. I refrain from examples, to avoid offence. To sum up, though this sort of alliance may perhaps strengthen the Prince, it weakens and afflicts his people. But a good Prince can never judge himself prosperous while his subjects suffer. I shall say nothing here of the cruelty of sending girls to remote regions, to husbands who differ from them in tongue, character, manners and disposition, condemning them to exile, though they would be

happy to forgo splendour and remain with their own people. Though this custom is so widely accepted that I cannot hope to uproot it, yet I have thought good to point out its evils, on the chance that my warnings may have an effect beyond my hopes.

## CHAP. X.—ON THE OCCUPATIONS OF THE PRINCE IN TIME OF PEACE.

The Prince, then, instructed in Christ's commandments, and fortified by wisdom, will hold nothing so dear as the happiness of his people, all of whom, as one body, he must love and cherish. He will devote every thought and effort to such an administration of the kingdom entrusted to him as will be approved by Christ when He demands an account, and leave his memory most honoured by all men. Let him, at home and abroad, imitate the illustrious Scipio, who said that he was never less alone than in solitude nor less idle than when unoccupied, because whenever he rested from the business of the State, he turned his thoughts to some question pertaining to the State's safety or dignity. Let him follow the example of Virgil's Æneas, whom the wise poet often shows grappling with problems while others slept, that he might better direct the fortunes of his followers. I could wish to see inscribed on the walls of palaces, or, better still, in the minds of Kings, Homer's admonition that he must not spend the whole night in sleep to whose care are entrusted peoples and affairs.

When in public, let him always busy himself with something concerning the common welfare, that is, let him be always the Prince. And it is more fitting that the Prince should take part in public duties than lead a life apart. When he goes forth, however, let him see to it that his looks, his bearing, and particularly his speech, are such as encourage virtue in the people, mindful that all his words and acts are observed and known by all. No wise man has approved the custom, observed by the Persian kings, of staying at home and living like hermits, endeavouring to win acclaim from their subjects by remaining inconspicuous and rarely appearing before the people. Whenever they did go forth, however, they displayed barbaric arrogance and

an immodest splendour won at the people's expense. The rest of their life they spent in games or in mad campaigns, as though in time of peace there were nothing for an illustrious Prince to busy himself with, whereas a harvest of golden deeds lies open to him if only he has a soul worthy of his estate.

There are some even to-day who think participation in public duties, the one course most honourable in a King, beneath his dignity; just as there are bishops who consider nothing less their duty than their most proper office, namely teaching the people, and with perverse contempt depute the task to others, preferring to claim for themselves the meanest occupations. Yet Mithridates, a sovereign noble in learning as he was in government, was not ashamed to declare the law to his people from his own lips and without interpreter, a purpose for which he is said to have mastered twenty-two languages. Nor did Philip, King of the Macedonians, deem it beneath a King to sit every day and hear causes. The same is true also of his son, Alexander the Great, though he was in truth ambitious to the point of madness. He is said to have stopped up one ear with his hand while hearing pleadings, saying that he kept it fresh for the other party. It is to be attributed to the perverted education of Princes that some abhor such occupations. For, says the old proverb, everyone practises gladly the art which he knows, shunning those in which he is conscious of incompetence. How then can anyone who has been surrounded by flatterers and vain women, corrupted first by depraved opinions and then by sensual indulgence, wasting his early years in gaming, dancing and hunting, take pleasure afterwards in duties which require the most diligent meditation? Homer says the Prince has not leisure enough to spend the whole night in sleep, but after such a training he aims at nothing all his life but to cheat time, the enemy, by pleasures ever new, as though there were no work in the world for a Prince. A good paterfamilias never lacks occupation in a single house, and must the Prince be idle in his vast domain?

Evil practices are to be met with good laws, faulty statutes amended, bad ones abrogated, good magistrates appointed and bad ones punished or corrected. Means must be sought out

for relieving the burdens of the masses, freeing the land, without bloodshed, from robbery and crime, and for establishing perpetual peace among the people. Other tasks there are, less important than these, yet fit for the greatest Prince, such as visiting and improving the cities, strengthening all that is insecure, embellishing them with public buildings, bridges, porticos, temples, river-walls, aqueducts, and driving out pestilence by altering buildings or drying up swamps. He should change the course of streams flowing in inconvenient places, let in or shut out the sea, as expediency demands, see to the cultivation of neglected fields in order to increase the food supply, and order new methods of cultivation where land is not being profitably farmed, forbidding vineyards, for example, in places where the wine is not worth the labour but where corn could be grown. Six thousand such tasks there are, meet for a Prince, even pleasant for a good Prince; busied with these he need never look about for wars to vary the tedium of idleness, nor shorten the night in gaming. In affairs of State, for instance in his public buildings and games, or in his reception of delegates coming to submit matters concerning the people, the Prince should not be immoderate nor extravagant, but magnificent. In his personal affairs he will be more frugal and restrained, partly that he may not have to regard himself as living at the public expense, partly that he may not teach his subjects luxury, the parent of so many woes.

I observe that many of the ancients made the mistake (would that it never occurred to-day) of directing all their efforts towards aggrandising their kingdom, not to making it better; and we know that while they strove to extend their frontiers, they often lost what they had. Not irrelevant here is that much-quoted saying of Theopompus, that he cared not how much greater he left his kingdom to his children, but how much better and more secure. And I think the Laconic commandment worthy to be written on the insignia of every Prince: "You have been given Sparta,—adorn her."

The good Prince must know that he can do nothing finer than to give back, more prosperous and in all respects more beautiful, the kingdom that fate has assigned to him. The most noble men have commended the spirit of Epaminondas, who, when an



unimportant magistracy, despised by the rabble, had through jealousy been assigned to him, so bore the office that it was afterwards held one of the most honourable and was sought after by the greatest men. For, as he said, it is not the office that confers dignity upon the man, but the man who dignifies the office. This the Prince will achieve if he occupies himself most with such things as add to the strength and beauty of his country, and shuns those that weaken it. The State is most strengthened by the example, the wisdom and the vigilance of a good Prince, by the integrity of magistrates and officials, by the holiness of priests, by the careful choice of schoolmasters, by just laws and measures conducing to virtue. Let his whole task be to encourage and develop these qualities. The vices opposed to them are most noxious, and may best be excluded from the State by tearing out the roots from which they spring. Zeal and efficiency in these matters are the philosophy of a good Prince. To combine for this wholesome purpose is the one thing worthy of Princes who are Christians.

Just as the slightest disorder among celestial bodies, the least divergence from their proper courses, involves humanity in grave disasters, as we plainly observe in eclipses of the sun or moon, so ruling Princes, if they wander from the straight and narrow way, sinning from ambition, passion, or folly, inflict ruin upon the world. No eclipse ever so afflicted mankind as the conflict between Pope Julius and Louis, King of the French, which we have so lately seen and wept.

## CHAP. XI.—ON GOING TO WAR.

The Prince should never be hasty in counsel, but above all he must be deliberate and circumspect in entering upon war, for while other things have their attending evils, war is the shipwreck of all that is good in a sea of all iniquity. No calamity prolongs itself with more tenacity—war springs from war, the greatest from the least, two wars from one, fierce and bloody war from a tourney; and the plague, rising in one place, spreads its infection to the neighbouring peoples, nay, to the most remote.

A good Prince will never make war until every method has been tried in vain to avoid it. If we adopt this policy, war will scarcely ever occur. But if there is no escaping so dire a calamity, the Prince's first care shall be to carry on the struggle with as little suffering for his people and as little shedding of Christian blood as may be, and to bring it to the speediest possible end.

The Prince who is truly Christian will first weigh the difference between men, born for peace and good will, and beasts, born to prey upon one another; then the difference between man and Christian man. Let him further reflect how desirable, how beautiful, how wholesome is peace; how calamitous and accursed, war: remembering what a host of sufferings even the most just war (if any war can be called just) brings in its train. Lastly, let him set aside impulse, calling reason to council long enough to compute accurately what the war will cost and whether—even if victory be certain, not always the case even with the best cause—its object is worth so much. Weigh the anxiety, the expense, the danger, the long and laborious preparation. You must assemble the barbarous and abandoned dregs of mankind, and, to appear more generous than your enemy, bribe and coax that most abject and execrable class of humanity, mercenaries! The good Prince's fondest wish is to have subjects of the highest

worth. But where is there so thorough and instantaneous a corrupter of manners as war? He would see his people secure and prosperous. But while he learns to campaign, he is compelled to expose his young men to every danger, and often in one hour makes multitudes of orphans, widows, childless old men, beggars and mourners.

Royal wisdom will cost the world too dear if Princes persist in learning by experience how vile a thing war is, only to say in their old age, "I did not believe that war was such a pestilence." Immortal Gods! with what unnumbered calamities to the whole universe have you learned such wisdom! The Prince will understand some day that nothing was gained by extending the frontiers of his kingdom, that what seemed at first an advantage has been the greatest loss; but in the meantime thousands of human beings have been killed or left desolate. These things should be learnt from books, from the stories of old men, from the calamities of neighbours. "For many years this or that Prince has fought a life and death struggle for this or that dominion: how much more loss it was than profit!" The good Prince will cleave to those things which are a lasting pleasure. What we undertake on impulse seems good while the impulse lasts: but what we undertake on good judgment satisfies us in age as it pleased us in youth. Nowhere is this truth more to be heeded than in declaring war.

Plato calls it sedition, not war, when Greeks fight Greeks: if this comes to pass, he bids them fight with all restraint. What then can we name the conflict when Christians wage war with Christians, united as they are by so many bonds? What, when the cause of a cruel, age-long struggle is some mere title, some private grudge, some silly and childish ambition?

There are some Princes who deceive themselves, imagining that assuredly war is just, and that they have a just cause. Leaving unsettled the question whether war is ever just, who does not think his cause just? And among all the shifting vicissitudes of human affairs, with so many covenants and treaties now concluded, now rescinded, who can lack cause, if any cause whatever is good enough to go to war on? But the Pontifical laws do not condemn all war. Even Augustine in some cases approves of it.

Saint Bernard also praises certain soldiers. But Christ himself and Peter and Paul everywhere teach the contrary. Is their authority less with us than that of Augustine or Bernard? Augustine, in one or two places, does not disapprove of war, but the whole philosophy of Christ condemns it. The Apostles everywhere abhor it, and how often do those same holy Doctors, who, it is said, accept war in one or two passages, condemn and detest it! Why do we gloss over all these, and seize upon what condones our sins? Moreover, if you look carefully into the matter, you will find that no one has approved the sort of war in which we now commonly engage.

Certain arts are condemned by the laws because they are too nearly related to imposture, and are commonly carried on by deceit—for instance, astrology and the so-called alchemy, though sometimes these are honestly practised. This course might with even greater justice be adopted with regard to wars. Some wars may perhaps be just, though in the present state of human affairs I know not whether I could cite one of which the cause has not been ambition, wrath, ferocity, lust, or avarice. It often happens that leaders more spendthrift than their private means warrant deliberately stir up war in order to augment their own resources by despoiling their followers. Princes, in fact, sometimes conspire together, devising fictitious reasons for war in order to diminish their peoples' power and strengthen their own positions by the public calamity. Accordingly, the good and Christian Prince should regard every war, however just, as a thing suspect. But, men insist, you must not abandon your right. I answer that any right conferred by relationship concerns chiefly the Prince's private affairs. How unjust it would be to enforce a right of this sort at the cost of such terrible suffering to the people, and, in order to secure some trifling addition to your dominion, first to despoil the whole kingdom and then involve it in a death struggle. Suppose one Prince offends another in some trifle, some private matter, one of hereditary right or something of the sort, for example, what is this to the people as a whole? A good Prince measures all things in terms of the public good, otherwise he would not be even a Prince. There is no such right over men as there is over cattle. An important part of government is the

consent of the people, which was the origin of kings. If a dispute arises between Princes, why do they not resort to arbiters? There are many bishops, many abbots and learned men, many worthy magistrates, whose judgment, rather than butchery, robbery, and universal calamity, should settle the matter.

First the Prince should distrust the reality of his right, then, if it appears quite certain, consider whether it ought to be vindicated at the cost of world-wide suffering. Wise men sometimes prefer losing a thing to gaining it, because they see that the former is less costly. Cæsar, I think, would prefer to surrender his right rather than claim the ancient monarchy and the power offered him in the letter of the jurisconsults. But what security will there be, it is asked, if no one insists on his right? Insist, indeed, if it profits the State, but beware lest the Prince's right cost his subjects too dear. What security is there now, though every man insists on the very letter of his rights? We see war following war, and no limit or end to the tumult. It is clear enough, then, that such reasoning leads to nothing. We must therefore try different remedies. There can be no commerce even between friends if they do not make some mutual concessions. For the sake of harmony the husband often yields to his wife. What does war breed but war? Civility, on the other hand, invites civility, fairness invites fairness. A righteous and merciful Prince will also bear in mind that the great sufferings which every war entails fall in great part to the lot of persons who have no concern in the conflict, and who have done nothing to merit calamity.

After the Prince has reckoned up the total of all the evils involved (if this can ever be done) then let him ask himself, Shall I, one man, be the author of so many catastrophies? Shall so much human blood, so many widows, so many houses of mourning, so many childless old men, so many persons undeservedly impoverished, such a destruction of morals, laws, religion, be put down to my sole account? Must I atone for all these to Christ? No Prince can punish his enemy without first attacking his own subjects. The people must be robbed, the soldier, whom Maro, with good reason, calls impious, must be courted. Subjects must be driven out of districts which they have long enjoyed for their profit. In other places they must be shut



in, that you may shut in the enemy. And often the sufferings you inflict on your own are more cruel than those you inflict on the enemy. How much more difficult and how much finer it is to build a fair city than to demolish it. But we see flourishing cities, built by the common people, demolished by the wrath of Princes. Yet often it requires more labour and expense to destroy a town than to found a new one, and we wage our war with such extravagant waste, such zeal and devotion, that a tenth of our exertions could have preserved the peace.

Let the good Prince strive always for that glory which is neither stained with blood nor built on another's downfall. In war, at the best, the fortune of one side is ruin for the other, and often even the victor weeps too dear a victory.

If we are not moved by patriotism nor by world-calamity, at least let us respect the honour of the name Christian. What can we think the Turks and Saracens say of us, when for so many centuries they have seen no agreement between Christian Princes, no treaties capable of founding a lasting peace, no limit to bloodshed, and less tumult among the heathen than among those who, in accordance with Christ's teachings, profess perfect concord?

How brief and fugitive is the life of man, how open to calamity, assailed as it is by infinite maladies, continual accidents, falling ruins, shipwreck, earthquakes, thunderbolts. No need was there of war to inflict suffering, yet the sufferings of war are more than all the others. The preachers should have expelled discord from the hearts of the multitude. But now Angle hates Gaul and Gaul hates Angle for no other reason than that he is an Angle. The Scot, only because he is a Scot, hates the Briton; the Italian hates the German, the Suevan the Helvetian, and so on for the rest; region hates region, and city city. Why are we divided by these stupid names, rather than bound together by the common name of Christ?

Even assuming that some war may be just, yet since all mortals go mad over this pestilence, surely the priests should summon the thoughts of Prince and plebs to other things. As it is, we sometimes see the divine acting as the firebrand of war. Bishops are not ashamed to go about in camps: there you will find the Cross and body of Christ; there they mingle His heavenly

sacraments with tumult worse than Tartarean, and in such bloody discord use the symbols of supreme charity. And, what is more absurd, Christ is in both camps, fighting, as it were, against Himself. It was not enough that war should be tolerated among Christians; it must also be considered the highest glory.

If the whole doctrine of Christ is not everywhere opposed to war, if one instance can be cited where it is commended, then let us Christians fight. The Hebrews were permitted to wage war, but only on God's bidding. Our oracle, speaking in the Gospels, warns us against war, yet we battle more madly than they. David was pleasing to God for his other virtues, yet He would not have His temple built by him, merely because his hands were stained with blood,—he was a warrior. For this work He chose the pacific Solomon. If these things were true among the Jews, what should we Christians do? They had the shadow of Solomon, we the true Solomon, the peace-loving Christ conciliating all things in Heaven and earth. Even against the Turks, I think we should not go thoughtlessly to war. We should first reflect that the kingdom of Christ was formed, extended and established by far other means. Perhaps, then, it should not be advanced by means different from those by which it rose and spread. And how often with this pretext for war has the Christian people been despoiled, and nothing more effected! If the matter is one of faith, that has been augmented and embellished by the sufferings of the martyrs and not by forces of soldiery: if the struggle is one for rule, wealth, possessions, we must ask ourselves again and again whether that is not all too alien to Christianity. Judging, too, by the usual character of those who now carry on these wars, it is more likely that we shall degenerate into Turks than that the Turks will be converted to Christianity. First let us see to it that we are truly Christian, and then, if it seems good, attack the Turks.

But we have written at length in another place on the evils of war, and must not repeat ourselves here. I would, however, exhort Princes bearing the name of Christian to set aside fictitious titles and false pretexts, and devote their whole hearts to the task of putting an end to the ancient and despicable war-madness of Christians, that peace and concord may flourish among peoples

linked by so many pledges. To this end let them display their genius, put forth their strength, combine in council, straining every nerve to reach the common goal. Those who would appear great, let them choose this way of proving themselves great. Achieving this, they will have done a far more glorious thing than if they had subdued the whole of Africa. Nor will this be too difficult, if everyone ceases clinging to his own cause, if we disregard our personal desires and devote ourselves to the common task, if we keep Christ and not the world in our councils. As it is, everyone seeks his own ends—Pontiffs and bishops worry about power and wealth, Princes are led headlong by passion and ambition, their subjects all follow them for gain, and it is no wonder that, under folly's leading, we run into tempests. But if with one mind we bent ourselves to the common task, even our own affairs would prosper more. Now we lose even that for which alone we fight.

I have no doubt, most illustrious of Princes, that this is your feeling: so you were born, so you have been instructed by the best and most upright men. For the rest, I pray that Christ may continue to bless your glorious efforts. He gave you a kingship unstained with blood. He would have it always free of blood. He rejoices in the name Prince of Peace. Do you likewise, that by your goodness and wisdom we may at length have holiday from these most senseless wars. The memory of past evils will commend peace to us, and the calamities of earlier times will double the appreciation of your good works.



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# THE GRAND DESIGN OF HENRY IV.

## INTRODUCTION.

Schemes for securing perpetual peace generally have for their authors either philosophers (such as Bentham and Kant) or accomplished scholars (like Pope Leo X.) or idealist statesmen (*e.g.*, President Wilson), but rarely financiers. The realm of finance is an uncongenial one for the altruist and the day-dreamer; the uncompromising, the matter-of-fact, and, perhaps, the unexuberant are likely to be its most flourishing types. There is, however, one striking exception to this generalisation. Maximilian of Béthune, Duke of Sully (1559—1641), acquired considerable reputation as Henry IV.'s Superintendent of Finance after he had laid the foundations of a very large private fortune from booty appropriated in the troublous times preceding the accession of his royal master. His task as finance minister was a herculean one, since not only had he to find new sources of revenue, increase the prosperity of France by devising new roads and canals, and redeem many Crown lands and prerogatives from pawn, but he had also to reorganise the whole system of tax-collecting and, perhaps most difficult of all, to refuse all grants of money to the monarch that were likely to be spent in private pleasure. That imagination was not Sully's strongest characteristic is shown by the fact that he was the first Chancellor of the Exchequer who could boast that his budgets were honest. Avarice, austerity, and shrewdness were the qualities attributed to him by contemporaries; and in his Memoirs he shows that he was quite aware of his reputation. It is therefore a remarkable fact that he should himself have been the author of one of the most imaginative and comprehensive schemes for securing what so

many have regarded as a mere chimera; and it is perhaps evidence of his consciousness of this seeming inconsistency that he took great pains to father the scheme on someone else.

Before examining the Grand Design in detail, it is necessary to say something of the history of the book, a part of which is here reprinted.

After the murder of Henry IV., Sully went into retirement; and though during the minority of Louis XIII. there were a few occasions when he might have been invited to return to public life, he was nevertheless condemned to political inactivity for over thirty years. Like St. Simon after him, he employed a considerable part of his enforced leisure in compiling his *Memoirs*, and, like St. Simon also, he adopted a consistent attitude of "*laudator temporis acti*." He had always prided himself on his literary skill. During the lifetime of Henry he had completed a biography of that monarch, and in retirement he wrote several treatises on miscellaneous subjects. With the aid of one of his secretaries, he began, about 1611, to draw up his *Memoires*, or *Oeconomies Royales d'Estat*, and these were at first compiled in the second person, the secretary calling to mind the many achievements of Sully's administration. In this, the original form, they were completed by about 1617, and the manuscripts were acquired by the Bibliothèque Nationale in 1843. These manuscripts contain six or seven references to what has been called the Grand Design, and a brief enumeration of these will reveal the scheme in embryo (a).

The first reference is under the year 1596, just after the submission of D'Epernon and when Henry's victory over his enemies of the League was practically complete. According to Sully, Henry took him aside and confessed that he hoped God would enable him to retake Navarre, that he would be granted a victory against the King of Spain, that he might, in some way, surpass the deeds of Don John of Austria, the victor of Lepanto, and that he might be relieved of his wife. He referred also to two great projects which he wished to put into execution before his death, but these are not specified by his biographer. The next reference in the MSS. is in connection with Sully's embassy to England in 1603, when

(a) For a complete examination of these MSS., see the articles by Pfister in *Revue Historique*, 1894, Vols. LIV., LV., and LVI.



he was sent to congratulate James on his accession. On this occasion Henry is credited with telling his ambassador that he wished to ally with England, Venice, the Low Countries, the Protestant princes and towns of Germany against Spain, and that for this purpose he wished to effect a marriage alliance with England. Together with these public instructions, Sully, according to his own account, was given certain secret commissions, and, in particular, was to confer with the English king on the following proposals:—

1. France, England, and Holland to combine their naval forces and seize the Spanish Indies or some of the islands on the routes of the Spanish treasure fleets.

2. The Hapsburgs, by the pressure of a great European coalition, to be deprived of the Empire and reduced to Spain.

3. The rivers Meuse, Moselle, and Rhine to be seized so as to control the Low Countries.

With regard to the proposed coalition against the Hapsburgs, Sully notes that all the participants were to benefit territorially except France and England.

The third reference is in 1604, when Sully records that he refused Henry a grant of public money for his pleasures on the ground that every penny would be required for the Grand Design. In 1609 there is a further allusion to the scheme when, in compliance with a request for an inventory of fortresses and troops, Sully proposed that two objects of policy should be, first, to transfer the Empire to some family other than the Hapsburgs, and, second, to confine the Hapsburgs to Spain. When, in this year, the Cleves-Julich succession question became acute, Sully relates that he encouraged Henry to commence hostilities, the French king having now secured the alliance of Savoy, Venice, the German princes, and the Low Countries, and having at his disposal an army of 150,000 men. The last reference is in 1610, when Sully is asked to put his proposals on record. This he does by enumerating all the alliances already formed against Spain, and suggests a scheme for dividing captured territory among the allies when the Hapsburgs shall have met with their inevitable defeat.

Such is the account of the Grand Design as given by Sully

shortly after his retirement. As it stands, it contains several inconsistencies and inventions: in particular, the account of the embassy of 1603 is more imaginative than historical. The letters reproduced, in the manuscript edition, to authenticate this mission are fabrications (*b*), and the secret instructions never existed but in the mind of Sully. It will be noticed also that in this account responsibility for the scheme is at one time attributed to the monarch, at another time to the minister. But, on the whole, the scheme as thus evolved is not unhistorical. Henry IV. certainly did meditate great designs against the Hapsburgs: he was at pains to build up a system of European alliances, and had he been spared the knife of Ravallac he might have lived to see the downfall of the Empire. There is indeed ample contemporary evidence that such a general policy was attributed to him. There exists in manuscript (*c*) an account of a conversation between Henry and Lesdiguières on October 17, 1609. In this account, Henry confessed that he still felt young, and that he hoped God would give him other ten years to complete his work. He compared himself to an architect who has laid the foundations and must leave to a successor the completion of the edifice. He wished the Dauphin to marry a daughter of the Duke of Lorraine and his eldest daughter to marry a prince of Savoy. To the idea of a Spanish marriage he declared himself resolutely opposed, believing that no marriage policy could ever remove the menace to France of Spanish ascendancy, since "the rise of the one must inevitably be the ruin of the other." Finally, he hoped for the day when there would be but one religion in France, though for the present he was content to use Protestants as well as Catholics. Numerous references of this kind are to be found in seventeenth-century books. The *Journal* of Bassompierre, the *Histoire Universelle* of Agrippa d'Aubigné, and the *Memoirs* attributed to Richelieu (*d*) and Fontenay-Mareuil (*e*) allude to

(*b*) This has been conclusively shown by the independent researches of Pfister and Kukulhaus.

(*c*) Affaires Etrangères France, 767, f. 5, quoted in Hanotaux, *Histoire du Cardinal de Richelieu*, Vol. I., p. 260.

(*d*) Richelieu, or the scribe employed to compile his *Mémoires*, notes that in 1610 Henry IV. was in his fifty-eighth year, and that his age was therefore the most serious obstacle to the Grand Design (Richelieu, *Mémoires*, ed. Michaud et Poujoulat, pp. 12—16).

(*e*) *Mémoires* (ed. Michaud et Poujoulat, pp. 9—12).

such designs and credit Henry IV. with the ambition of raising France, on the ruins of the Hapsburg Empire, to a commanding position in Europe. Matthieu, in his *Histoire de Henri IV.* (1631) says of him: "Sans les infidélités françaises, il eust fait une partie du monde français, comme Probus l'avait fait romain."

As thus stated, the Grand Design resolves itself into little more than a historical truism. Ascendancy in the councils of Europe had traditionally been associated with the country which produced such monarchs as Philip Augustus, St. Louis, Philip the Fair, and Louis XII., and the lead taken by France in the Crusades had helped to confirm this political pre-eminence. As early as the fourteenth century, a French jurist (f) had affirmed that supremacy in the affairs of Europe belonged to the French monarchy by a kind of natural right, "ex nativæ pronitatis ad melius jure." In the fifteenth century, George Podiebrad, King of Bohemia (1420—1471), evolved a scheme for maintaining European tranquillity (g), and addressed himself first of all to the King of France, believing that his approval was the chief preliminary requisite for the success of such schemes. But Louis XI. was a poor patron, benefiting more by the strife of his neighbours than by their concord. The years of anarchy and dynastic war following on the reigns of Louis XII. and Francis I. deprived French kings of their birthright. With the restoration of France under the great king Henry IV., it was not unnatural that the tradition should be revived.

In this revival, there was a recrudescence of the old crusading spirit. French policy since the time of Francis I. had tended to an alliance with the Turk, whose fleets frequently harried Hapsburg possessions on the Mediterranean coasts, and for this reason it is unlikely that Henry himself ever meditated any serious designs against the Turks. But nevertheless he was probably familiar with the plan for a crusade proposed in 1609 by a Greek Minotto (h). During the minority of Louis XIII., such proposals take a more concrete form. The Duke of Nevers,

(f) Jean of Jandun.

(g) The scheme was drawn up by Marini in *De Unione Christianorum contra Turcas*. See Ter Meulen, *Der Gedanke der Internationalen Organisation*, pp. 108—123.

(h) Cf. Zinkeisen, *Geschichte des Osmanischen Reiches*, III. 859.

induced by the promises of the Greeks, actually inaugurated such a crusade, with the help and good will of France, but the attempt proved abortive. A French ambassador (i) in Constantinople compiled a *Short Discourse on the Surest Means of Ruining the Ottoman Empire*. Father Joseph—Richelieu's understudy and prompter—meditated for long the project of expelling the Turks from Europe, and even composed a *Turciade*. At the time when Sully was compiling his Memoirs, a crusade against the infidel was so far from being a fantastic scheme as to be almost a commonplace of politics.

If it be added that the career of Richelieu must have proved an inspiration to a man of Sully's type, we shall have completed our enumeration of the contemporary influences that are evident in the first and manuscript edition of the Memoirs. Richelieu revived and amplified the policy of Henry IV., which had been set aside during the regency of Marie de Medicis. Before his death in 1643, the prerogatives of the Empire had been considerably diminished, Spain had become almost isolated, the Hapsburgs were being forced back on their hereditary lands, and French gold was already corrupting the German princes, Protestant and Catholic alike. In a measure it is true to say that the real Grand Design was the inspiration and achievement of Richelieu, and it is noteworthy that the later edition of Sully's Memoirs—the only edition that was printed—was prepared in the period between 1620 and 1635, when the career of the great minister was of surpassing interest to every patriotic Frenchman, and especially to one imbued, as was Sully, with the glorious traditions of the reign of Henry IV.

Thus, despite certain inaccuracies and inconsistencies, the original draft of Sully's Memoirs, so far from containing any fanciful scheme for remaking the map of Europe and introducing an era of perpetual peace, simply reflects the dynastic ambitions of the Bourbons as pursued by Henri IV. and Richelieu. But after 1617 Sully returned to his memoir-writing and, whether because of impaired mental and moral powers or whether because events seemed to be leading to the complete victory of France, he made very important changes in the revised version.

(i) De Brèves, *Discours abrégé des asseurez moyens de ruiner la monarchie des princes ottomans* (n. d.).



Imagination now freely supplements fact, documentary evidence is carefully forged wherever it might help to give an appearance of verisimilitude, and, quite unconscious of discrepancies and inconsistencies, a far more wonderful Grand Design is evolved. To complete the illusion, Henry IV. is declared its author as the scheme seems more befitting a great monarch than a cautious financier. It is this revised version that was printed (the first part in 1638, the second part in 1662), and one reason for Sully deciding to make this version public may have been his desire to be revenged on Scipion Dupleix, who, in his official history of Henry's reign, had carefully underestimated the part played by Sully. In these printed texts, the Grand Design appears only in scattered fragments, but, nevertheless, so fully and carefully were they "documented" that most contemporary readers were led to believe that Henry IV. really had entertained a scheme for securing the peace of Europe. The genuineness of the printed Memoirs was explicitly affirmed by Hardouin de Péréfixe in 1661 (*k*), and the only pre-nineteenth-century writers who expressed their doubts were Vittorio Siri (*l*) and St. Simon (*m*).

It is therefore hardly to be wondered at that in the eighteenth century—a period as uncritical as the seventeenth is pedantic—the Memoirs of Sully were accepted at their face value. Voltaire expressly commended the writings of Sully and Péréfixe as reliable accounts of Henry's reign (*n*). The Abbé de St. Pierre based his "Projet de Paix Perpetuelle" on the assumption that the Grand Design was authentic. The finishing touch was given in 1745, when the Abbé de l'Ecluse des Loges published a new edition of the Memoirs, in which all the scattered fragments relating to the Grand Design were collected together and put into one chapter at the end (numbered XXX.). In doing this, the Abbé was taking an unwarrantable liberty with his text, for Sully had never presented the scheme as a consistent whole; but undoubtedly this helped to popularise the supposed plan of a popular king. By 1778 this compilation had gone through five

(*k*) *Histoire du Roi Henri le Grand*, Amsterdam, 1661, p. 383.

(*l*) *Mémoire Recondite* (1677), Vol. I., p. 29. According to Siri, Sully's Memoirs are "sparse di chimere e inverisimili."

(*m*) *Parallèle des trois premiers rois Bourbons* (ed. Faugère, pp. 137–145).

(*n*) *Essai sur les mœurs et l'esprit des nations*, Chapter CLXXIV.



editions, and, as thus presented, the Grand Design was elevated to the level of a philosophical system. Rousseau said that it was not good enough for Europe, because Europe was not good enough for it (o); and even Bentham may have been sub-consciously influenced when he entrusted the inauguration of his European fraternity of utilitarian States to the combined influence of France and England. Echoes of Sully may be detected here and there in Kant. The direct inspiration of Sully can be traced in the peace projects of more obscure writers, from the Englishman Bellers (p) and the German Rachel (q) to the Frenchman Saintard (r). The scheme attributed to Cardinal Alberoni is little more than a plagiarism. Sully's "Grand Design" is thus the starting-point of many of the schemes which have since been put forward for establishing European peace, and this because it was the first proposal, based on considerable knowledge of European politics, which accepted facts and which presupposed that peace may be not only a moral ideal but a practical blessing. If States can no longer be influenced by religion, they may yet be persuaded by political economy. That is the measure of Sully's difference from his predecessors and the reason for his influence in later times.

The Grand Design is based on two things—an acceptance, so far as possible, of the *status quo*, and an appeal to the innate selfishness of man. The three standard religions (Catholic, Lutheran, and Calvinist) are admitted; the constitutional forms, whether monarchical or republican, of the European States are accepted as standards, and thus there is to be a minimum of dislocation when Europe is united in the great federation of hereditary monarchies, elective monarchies, and republics. There is, moreover, evidence of some historical insight in the details of the scheme. Holland and Switzerland are to be confirmed in their republican traditions; Italy is to be freed from the foreigner. The Pope is to become a secular prince—an intelligent appreciation of some later papal developments; and the Duchy of Savoy is to be made a monarchy—perhaps the earliest anticipation of

(o) In his Essay on St. Pierre's *Projet de Paix Perpetuelle*.

(p) *Some reasons for an European State Proposed to the Powers of Europe*, 1710.

(q) *De Jure Naturæ et Gentium Dissertationes*, 1676.

(r) *Roman Politique sur l'état présent des affaires de l'Amerique*, 1757.

the great destiny in store for that house. Russia is considered as a power which might more legitimately develop in Asia than in Europe, and as, in any case, too risky a speculation for European investment. As intelligent knowledge of contemporary Europe is the basis of the scheme, so the inducement for prospective partners is one which even the most bellicose could scarcely refuse—the promise of additional territory, and this at the expense of the House of Austria. It does not occur to Sully that by dividing up Hapsburg territory he might create a permanent tradition of *revanche*. The military forces of this great European confederacy are to be directed to one object—the expulsion of the Turk from Europe.

Within this confederation there would be freedom of commerce, and supreme control would be vested in a senate of about sixty-six persons elected every three years from the participating States, a certain number of representatives being assigned to each. There would be subordinate and local assemblies: the decisions of the general senate only would be “final and irrevocable decrees.” The Grand Design has for its backing a composite army, but whether this would be permanent and employed to enforce, if necessary, the decisions of the League, is not quite clear from the text.

Sully's preference for a city of Central Europe as the permanent seat of the senate's activities is noteworthy as, in some respects, an anticipation of the part to be played in later irenist ideals by the Germanic Confederation. Within a few years of his death, the League of the Rhine, in attempting to revive something of German nationalism, attempted also to create a guarantee for the peace of Europe by uniting (with German princes) that power which was most likely to have “annexationist” designs (at German expense), and whose ambitions might thus be neutralised by compact rather than by challenge. Throughout the eighteenth century, indeed, the very existence of the Germanic Confederation was regarded as making for European peace. Its geographical position was held to impose a restraint on ambitious neighbours, and at least one observer maintained that its weight secured that equilibrium to which, despite wars, Europe was (in this view) always automatically restored. It is not less noteworthy that,

of the German States, Prussia was considered the most important as a model of good government and as the strongest rivet in this great bulwark against anarchy and aggression. Mirabeau (s) wrote: "Si la Prusse p  rit, l'art de gouverner retournera vers l'enfance"; and his admiration was shared by French political thinkers from Voltaire to Rousseau.

It is thus in its concreteness and in its anticipation of several later doctrines of importance that Sully's Grand Design is of most interest to the modern student of international relations. To criticise it in points of detail would scarcely be fair, especially as the scheme was only gradually evolved and was never reduced by its author to a studied form. No doubt one of the weakest parts of the Design is that the Senate—merely an echo of the Imperial Diet—would lose its authority as soon as litigants found that it was not in their interests to obey its behests, but the same weakness may be detected in some more modern projects. Moreover, there is an appeal to base motives in the inception of the scheme, the participants, with the possible exception of France and England, being brought together by the promise of shares in an Empire about to be dismembered. But Sully may have regarded that as means to an end and, like a true optimist, he may have hoped that once his League was established it would, by a gradual and educative process, eliminate rapacity and aggression from international politics. For it is Sully's greatest merit that he preached certain truths, a respect for which in the minds of responsible statesmen might have saved Europe from many years of disaster and crime. Long before Montesquieu and Rousseau this austere Huguenot proclaimed that the happiness and success of a nation may be in inverse ratio to its territorial extent (t), that wars of aggrandisement defeat their own object, and that in great European struggles the plight of the victor may be at least as unhappy as that of the conquered (u). Who can say that these axioms have yet been understood by those who are

(s) In the conclusion to his *Monarchie Prussienne*.

(t) See *infra*, p. 24.

(u) Cf. *Memoirs*, Bk. IX. (1598). "I am not afraid to say that in the present state of Europe it is almost equally unhappy for its princes to succeed or miscarry in their enterprises, and that the true way of weakening a powerful neighbour is not to carry off his spoils but to leave them to be shared by others."

entrusted with the direction of international policy in Europe? Who can dispel from our minds the nightmare of a future world-war of *revanche* or territorial greed? Sully's Grand Design is unsound, unhistorical, and out-of-date, but it is because it has still some lessons for a world grown sick of war that its reprint here may be justified.





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The text used in this reprint is that of the eighteenth-century English translation (6 vols., London, 1778, and Dublin, 1781). This text was reprinted with a few changes in Bohn's series (4 vols., 1892), and it should be noted that the chapter here reprinted (numbered XXX.) is the composite chapter first inserted by the Abbé de l'Ecluse des Loges in his edition of 1745. It is through this composite chapter that the Grand Design is most familiar to modern times, and so it has been reprinted here. A few minor changes have been made in the English version where it seemed obscure, even at the expense of giving a somewhat free translation of the original. The eighteenth-century footnotes (mostly valueless) have been omitted and a few elementary notes inserted in their place.

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# MEMOIRS OF THE DUKE OF SULLY.

## BOOK XXX.

WHEREIN IS DISCUSSED THE POLITICAL SCHEME,

COMMONLY CALLED

THE GREAT DESIGN OF HENRY IV.

As this part of these Memoirs will be chiefly taken up with an account of the great design of Henry IV. or the political scheme, by which he proposed to govern, not only France, but all Europe, it may not be improper to begin it with some general reflections on the French monarchy and on the Roman empire. We know that on the ruins of the Roman empire were formed not only the French but all the other powers comprising the Christian world.

If we consider all those successive changes which Rome has suffered from the year of its foundation, its infancy, youth and virility; its declension, fall and final ruin; these vicissitudes, which it experienced in common with the great monarchies by which it was preceded, would almost incline one to believe that empires, like all other sublunary things, are subject to be the sport and at last to sink under the pressure of time. Extending this idea still further, we perceive that all states are liable to be disturbed in their careers by certain extraordinary incidents which might be termed epidemic disorders. These frequently hasten the destruction of empires and, their cure by this discovery becoming easier, we may at least save some of them from catastrophes so fatal.

But if we endeavour to discover more visible and natural causes of the ruin of this vast and formidable empire, we shall perhaps soon perceive they were produced by a deviation from those wise laws and that simplicity of manners, which were the

origin of all its grandeur, into luxury, avarice and ambition. Yet there was, finally, another cause, the effect of which could hardly have been prevented or foreseen by the utmost human wisdom; I mean, the irruptions of those vast bodies of barbarous people, Goths, Vandals, Huns, Herulians, Rugians, Lombards, &c. from whom, both separately and united, the Roman empire received such violent shocks that it was at last overthrown by them. Rome was three times sacked by these Barbarians; under Honorius, by Alaric, chief of the Goths; by Genseric, king of the Vandals, under Martin; and under Justinian, by Totila and the Goths. Now if it be true that, after this, the city retained only the shadow of what she had been; if we must regard her as divested of the empire of the world, when her weakness and the abuses of her government made her fall to be looked upon, not simply as inevitable, but as very near, and, in fact, already arrived; the date of her fall may then be marked long before the reign of Valentinian III. to whom it will be doing a favour to call him the last emperor of the West. For several of those emperors whom he succeeded were, in reality, no better than tyrants, by whom the empire was torn and divided, and the shattered remnants left to be the spoil of the Barbarians, who, indeed, by their conquests, acquired an equal right to them.

Rome, nevertheless, by intervals, beheld some faint appearances of a revival; those of which she was most sensible were under the reign of the great Constantine, whose victories once more united this vast body under one head. But when he transported the seat of his empire from Rome to Constantinople, he, by that step, contributed more to the destruction of a work which had cost him so much labour than all the ill conduct of his predecessors had been able to effect; and this even he rendered irremediable, by dividing his empire equally between his three sons. Theodosius, who by good fortune, or from his great valour, found himself in the same circumstances with Constantine, would not perhaps have committed the same fault, had he not been influenced by the force of Constantine's example; but this in a manner necessarily obliged him to divide his empire in two; Arcadius had the East, Honorius the West: and from that time there never were any hopes nor opportunity of reuniting them.

According to the order of nature, by which the destruction of one kingdom becomes the instrument for the production of others; so, in proportion as the most distant members of the empire of the East fell off from it, from thence there arose kingdoms; though indeed they did not at first bear that rank. The most ancient of these (its origin appearing to have been in the eighth year of the empire of Honorius) is undoubtedly that which was founded in Gaul by the French, so called from Franconia, from whence they were invited by the Gauls, inhabitants of the countries about the Moselle, to assist them in their deliverance from the oppression of the Roman armies. It being a custom among these Franks or French, to confer the title of king upon whatever person they chose to be their leader; if the first or second of these chiefs have not borne it, it is certain, at least, that the third, Merovius, and more particularly Clovis, who was the fifth, were invested with it. Some of them supported the royal title with so much glory, including Pepin and Charles Martel (to whom it would be doing an injustice to refuse this dignity), that their worthy successor Charlemagne, in Gaul, revived an imperfect image of the now extinguished empire in the West. This indeed was facilitated by those natural advantages France enjoys of numerous inhabitants trained to war and a great plenty of all things serving the different necessities of life, joined to a very great conveniency for commerce, arising from its situation, rendering it the centre of four of the principal powers of Europe; Germany, Italy, Spain, and Britain, with the Low Countries.

Let us here just say one word upon the three races which compose the succession of our kings: in the first of them I find only Merovius, Clovis I. and Clovis II.; Charles Martel, Pippin the Short, and Charlemagne in the second, who have raised themselves above the common level of their race. Take away these six from the thirty-five, which we compute in these two races, and all the rest, from their vices or their incapacity, appeared to have been either wicked kings, or but the shadow of kings; though among them we may distinguish some good qualities in Sigebert and Dagobert, and a very great devotion in Lewis the Debonnair, which, however, ended in his repenting the



loss of empire and his kingdom, together with his liberty, in a cloister.

The Carolingian race having reigned obscurely, the crown then descended upon a third (*a*); the four first kings of which, in my opinion, appear to have been perfect models of wise and good government. The kingdom which came under their dominion had lost much of its original splendour, for from its immense extent in the time of Charlemagne, it was reduced to nearly the same bounds which it has at this day. There was this difference, however, that though these kings might have desired to restore the ancient limits of their territories, they had no means of doing so, since the form of government was such that the monarchs were subject to the great men of the realm who had a right to choose and even govern their sovereigns. The conduct therefore which they pursued was to condemn arbitrary power to an absolute silence; and, in its place, to substitute equity itself: a kind of dominion which never excites envy. Nothing now was done without the consent of the great men and the principal cities, and almost always in consequence of the decision of an assembly of the estates. A conduct so moderate and prudent put an end to all factions, and stifled all conspiracies, which are fatal to the state or the sovereign. Regularity, economy, a distinction of merit, strict observance of justice, all the virtues which we suppose necessary qualifications for the good of a family, were what characterized this new government, and produced what was never before beheld, and what perhaps we may never see again, an uninterrupted peace (*b*) for one hundred and twenty-two years. What the Capetians gained by this for themselves was the advantage of introducing into their house a hereditary right to the crown, and this could never have been procured for them by the sole authority of the Salic law. But they nevertheless thought it a necessary precaution not to declare their eldest sons for their successors till they had modestly asked the consent of the people, preceding it by a kind of election, usually having them crowned in their own life-time and seated with them upon the throne.

(*a*) That is, the Capetian race.

(*b*) The period between the accession of Hugh Capet (987) and that of Louis VI. (1108).

Philip II. whom Lewis VII. his father caused to be crowned, and reign with him in this manner was the first who neglected to observe this ceremony between the sovereign and his people. Several victories, obtained over his neighbours and subjects having gained him the surname of Augustus, served to open him a passage to absolute power, and a notion of the fitness and legality of this power, by the assistance of favourites, ministers and others, became afterwards so strongly imprinted in his successors, that they looked upon it as a mark of good policy to act contrary to those maxims, the general and particular utility of which had been so effectually confirmed by the experience of his predecessors. And this they did without any fear or perhaps without any conception of the fatal consequences which such a proceeding must necessarily incur at the hands of a nation which adores its liberty. This they might have deduced from the means to which the people had immediate recourse when they saw their liberties threatened. The kings could never obtain of their people any other than that kind of constrained obedience which always inclines them to embrace with eagerness all opportunities of mutiny. This was the source of a thousand bloody wars: that by which almost all France was ravaged by the English; that which we had with Italy, Burgundy, Spain. All of them can be attributed to no other causes than the civil dissensions by which they were preceded and here the weakest side, stifling the voice of honour, and the interest of the nation, constantly called in foreigners to assist them in the support of their tottering liberties. These were shameful and fatal remedies: but from that time they were constantly employed, down even to our times, by the house of Lorraine, in a league, for which religion was nothing more than the pretence (c). Another evil, which may at first appear to be of a different kind, but which, in my opinion, proceeds from the same source, was a general corruption of manners, a thirst for riches and a most shameful degree of

(c) Sully may here be thinking of the affair of the bishopric of Strasburg (1595). In that year Henry, as arbitrator, divided the episcopal domains between the Protestant Elector of Brandenburg and the Catholic Charles of Lorraine. The latter refused to adhere to this, and, by appointing as his coadjutor the Archduke Leopold, cousin of the Emperor Rudolph, was bidding for the support of France's enemy.

luxury : these, sometimes separately, and sometimes united, were alternate causes and effects of many of our miseries.

Thus, in a few words, I have exposed the various species of our bad policy with respect both to the form of the government, successively subjected to the will of the people, the soldiers, the nobles, the states and the kings, and in regard to the persons likewise of these last, whether dependent, elective, hereditary, or absolute.

From the picture here laid before us we may be enabled to form our judgment upon the third race of our kings : we may find a thousand things to admire in Philip Augustus, Saint-Lewis, Philip le Bel, Charles the Wise, Charles VII. and Lewis XII. But it is to be lamented that so many virtues or great qualities have been exercised upon no better principles ; with what pleasure might we bestow upon them the titles of great kings, could we but conceal that their people were miserable : what might we not, in particular, say of Lewis IX. ? Of the forty-four years which he reigned, the first twenty of them exhibit a scene not unworthy of comparison with the last eleven of Henry the Great. But I am afraid all their glory will appear to have been destroyed in the twenty-four following ; wherein it appears that the excessive taxes upon the subjects, to satisfy an ill-judged and destructive devotion ; immense sums transported into the most distant countries, for the ransom of prisoners ; so many thousand subjects sacrificed ; so many illustrious houses extinguished ; caused a universal mourning throughout France, and altogether a general calamity.

Let us for once, if it is possible, fix our principles ; and being, from long experience, convinced that the happiness of mankind can never arise from war (of which we ought to have been persuaded long ago), let us upon this principle take a cursory view of the history of our monarchy. We will pass by the wars of Clovis and his predecessors, because they seem to have been in some degree necessary to confirm the recent foundations of the monarchy : but what shall we say of those wars in which the four sons of Clovis, the four sons of Clotaire I. and their descendants were engaged, during the uninterrupted course of one hundred and sixty years ? and of those also, by which, for the

space of one hundred seventy-two other years, commencing with Lewis le Debonnaire, the kingdom was harassed and torn? What follows is still worse. The slightest knowledge of our history is sufficient to convince any one that there was no real tranquillity in the kingdom from Henry III. to the peace of Vervins: and, in short, all this long period may be called a war of nearly four hundred years' duration (*d*). After this examination (from whence it incontestibly appears that our kings have seldom thought of any thing but how to carry on their wars) we cannot but be scrupulous in bestowing on them the title of Truly Great kings; though we shall, nevertheless, render them all the justice which appears to have been their due. For I confess (as indeed it would be unjust to attribute to them alone, a crime which was properly that of all Europe) that several of these princes were sometimes in such circumstances as rendered the wars just, and even necessary: and from hence, when indeed there were no other means to obtain it, they acquired a true and lasting glory. Moreover, from the manner in which several of these wars were foreseen, prepared for and conducted, we may in their councils discover such master-strokes of policy, and in their persons such noble instances of courage, as are deserving of our highest praises. From whence then can proceed the error of so many exploits, in appearance so glorious, though the effect of them has generally been the devastation both of France and all Europe? I repeat it again, of all Europe, which even yet seems scarce sensible that in her present situation, a situation in which she has been for several centuries, every attempt tending to her subjection, or only to the too considerably augmenting of any one of her principal monarchies at the expense of the others, can never be any other than a chimerical and impossible enterprise. There are none of these monarchies but whose destruction would require a concurrence of causes infinitely superior to all human force. The whole, therefore, of what seems proper and necessary to be done, is to support them all in a kind of equilibrium; and whatever prince thinks, and in consequence acts otherwise, may indeed

(*d*) Including the twenty-two years between the accession of Henri III. and the Peace of Vervins, this gives a total period of 354 years.



cause torrents of blood to flow through all Europe, but he will never be able to change her form.

When I observed that the extent of France is not now so considerable as it was in the time of Charlemagne, my intention was not that this diminution should be considered as a misfortune. In an age when we feel the sad effects of having had ambitious princes for our kings, were all to concur in flattering this fatal ambition, it would be the cause of still greater evils; and it may be generally observed that the larger the extent of kingdoms, the more they are subject to great revolutions and misfortunes (e). The basis of the tranquillity of our own country, in particular, depends upon preserving it within its present limits. A climate, laws, manners, and language, different from our own; seas, and chains of mountains almost inaccessible, are all so many barriers, which we may consider as fixed even by nature. Besides, what is it that France wants! will she not always be the richest and most powerful kingdom in Europe? It must be granted. All therefore which the French have to wish or desire is that Heaven grant them pious, good, and wise kings; and that these kings may employ their power in preserving the peace of Europe; for no other enterprise can truly be to them either profitable or successful.

And this explains to us the nature of the design which Henry IV. was on the point of putting in execution when it pleased God to take him to Himself, too soon by some years for the happiness of the world. From hence likewise we may perceive the motives of his pursuing a conduct so opposite to any thing that had hitherto been undertaken by crowned heads: and here we may behold what it was that acquired him the title of Great. His designs were not inspired by a mean and despicable ambition, nor guided by base and partial interests: to render France happy for ever was his desire, and she cannot perfectly enjoy this felicity, unless all Europe likewise partake of it. So

(e) Cf. Montesquieu: "Si une république est petite, elle est détruite par une force étrangère; si elle est grande, elle se détruit par une vice intérieure" (*De l'Esprit des Lois*, IX. 1); Rousseau: "De deux états qui nourrissent le même nombre d'habitants, celui qui occupe une moindre étendue de terre est réellement le plus puissant" (*Projet de Paix Perpétuelle*); and Volney: "Ce sont les grands états qui ont perdu les mœurs et la liberté des peuples" (*Considerations sur la guerre actuelle des Turcs*).



it was the happiness of Europe in general which he laboured to procure, and this in a manner so solid and durable, that nothing should afterwards be able to shake its foundations.

I must confess I am under some apprehensions, lest this scheme should at first be considered as one of those chimeras, or idle political speculations, in which a mind susceptible of strange and singular ideas may be so easily engaged. Those who shall thus think of it must be that sort of people on whom first impressions have the force of truth; or those, who by their distance from the times, and their ignorance of the circumstances, confound the wisest and noblest enterprises that have ever been formed, with those chimerical projects which princes, intoxicated with their power, have in all ages amused themselves in forming. I confess, that if we attentively examine the designs which have been planned from motives of vanity, confidence in good fortune, ignorance, nay, from sloth, and even timidity itself, we must be surprised at beholding sovereigns plunged blindly into schemes, specious perhaps in appearance, but which at bottom have not the least degree of possibility. The mind of man, with so much complacency, nay, even with so much ardour, pursues whatever it fancies great or beautiful that it is sorry to realise that these objects have frequently nothing real or solid in them. But in this, as well as in other things, there is an opposite extreme to be avoided; namely, that as we usually fail in the execution of great designs, from not commencing and continuing them with sufficient vigour and spirit, so likewise we are defective in the knowledge of their true worth and tendency, because we do not thoroughly and properly consider them in all their dependencies and consequences. I have myself been more difficult to persuade in this matter than perhaps any of those who shall read these Memoirs, and this I consider as an effect of that cold, cautious and unenterprising temper, which makes so considerable a part of my character.

I remember the first time the king spoke to me of a political system, by which all Europe might be regulated and governed as one great family, I scarce paid any attention to what he said, imagining that he meant no more by it than merely to divert himself, or perhaps to shew that his thoughts on political subjects

were greater and penetrated deeper than most others: and my reply was a mixture of pleasantry and compliment. Henry said no more at that time. He often confessed to me afterwards, that he had long concealed from me what he meditated on this subject, from a sense of shame, which many labour under, lest they should disclose designs which might appear ridiculous or impossible. I was astonished when, some time after, he renewed our conversation on this head and continued from year to year to entertain me with new regulations and new improvements in this scheme.

I had been very far from thinking seriously about it. If by accident it came into my thoughts for a moment, the first view of the design, which conceived a re-union of all the different states of Europe; immense expenses, at a time when France could scarce supply her own necessities; a concatenation of events, which to me appeared infinite: these were considerations which had always made me reject the thought as vain. I even apprehended there was some illusion in it, and I recollected some of those enterprises in which we had endeavoured to engage Europe. I considered those in particular which had been formed by some of our kings, from much less considerable motives, and I felt myself disgusted with this, from the bad success of all the former. The disposition of the princes of Europe to take umbrage against France, when she would have assisted them to dissipate their fears from the too great power of Spain, this alone to me appeared an unsurmountable obstacle.

Strongly prejudiced by this opinion, I used my utmost efforts to undeceive Henry, who, on his side, surprised not to find me of his sentiment in any one point, immediately undertook, and readily succeeded in convincing me that my thus indiscriminately condemning all parts of his project, in which he was certain that every thing at least was not blameable, could proceed from nothing but strong prejudices. I could not refuse, at his solicitations, to use my endeavours to gain a thorough comprehension of it. I formed a clearer plan of it in my mind. I collected and united all its different branches. I studied all its proportions and dimensions, if I may say so, and I discovered in them a regularity and mutual dependence, of which, when I had only considered the design in a confused and careless manner, I had not been at

all sensible. The benefit which would manifestly arise from it to all Europe was what most immediately struck me, as being in effect the plainest and most evident; but the means to effect so good a design were, therefore, what I hesitated at the longest. The general situation of the affairs of Europe, and of our own in particular, appeared to me every way contrary to the realisation of the project. I did not consider that, since the execution of the scheme might be deferred till a proper opportunity, we could prepare ourselves with all those resources which time affords to those who know how to make the best use of it. I was at last convinced, that however disproportionate the means might appear to the effect, a course of years, during which every thing should as much as possible be made subservient to the great object in view, would surmount many difficulties. It is indeed somewhat extraordinary that this point, which appeared to be and really was the most difficult of any, should at last become the most easy.

Having thus seen all parts of the design in their just points of view, having thoroughly considered and calculated and from thence discovered and prepared for all events which might happen, I found myself confirmed in the opinion, that the design of Henry the Great was, upon the whole, just in its intention, possible and even practicable in all its parts, and infinitely glorious in all its effects. So that, upon all occasions, I was the first to recall the king to his engagements, and sometimes to convince him by those very arguments which he himself had taught me.

The constant attention this prince paid to all affairs transacted round him arising from those singularly unhappy circumstances by which, in almost every instant of his life, he found himself embarrassed, had been the cause of his forming this design even from the time when, being called to the crown by the death of Henry III. he considered the humbling of the house of Austria as absolutely necessary for his security. Yet, if he was not beholden to Elizabeth for his thought of the design, it is, however, certain that this great queen had herself conceived it long before, as a means to avenge Europe for the attempts of its common enemy. The troubles in which all the following years were

engaged, the war which succeeded in 1595, and that against Savoy after the peace of Vervins, forced Henry into difficulties which obliged him to lay aside all thoughts of other affairs; and it was not till after his marriage and the firm re-establishment of peace, that he renewed his thoughts upon his first design, the execution of which appeared then more impossible, or at least more improbable, than ever.

He, nevertheless, communicated it by letters to Elizabeth, and this was what inspired them with so strong an inclination to confer together in 1601 when this princess came to Dover and Henry to Calais. What the ceremony of an interview would not have permitted them to do I at last begun by the voyage which I made to this princess. I found her deeply engaged in the means by which this great design might be successfully executed; and, notwithstanding the difficulties which she apprehended in its two principal points, namely, the agreement of religions and the equality of the powers, she did not to me appear at all to doubt of its success. This she chiefly expected, for a reason of the justness of which I have since been well convinced, namely, that as the plan was only contrary to the design of some princes, whose ambitious views were sufficiently known to all Europe, this fact would rather promote than retard its success. She farther said, that its execution by any other means than that of arms would be very desirable, as this has always something odious in it: but she confessed that indeed it would be hardly possible to begin it otherwise. A very great number of the articles, conditions, and different dispositions is due to this queen and sufficiently shew, that in respect of wisdom, penetration, and all the other perfections of the mind, she was not inferior to any king the most truly deserving of that title.

It must indeed be considered as a very great misfortune that Henry could not at this time second the intention of the queen of England, who wished to have the design put in immediate execution; but when he thus laid the foundation of the edifice he scarcely hoped to see the time when the finishing hand would be put to it. The recovery of his own kingdom from the various maladies by which it was afflicted was a work of several years; and unhappily he had himself seen forty-eight when he began it.



He pursued it, nevertheless, with the greatest vigour. The edict of Nantes had been published with this view and every other means was used which might gain the respect and confidence of the princes of Europe. Henry and I, at the same time, applied ourselves with indefatigable labour to regulate the interior affairs of the kingdom. We considered the death of the king of Spain (*f*) as the most favourable event that could happen to our design, but it received so violent a shock by the death of Elizabeth, as almost made us abandon all our hopes. Henry had no expectation that the powers of the North nor king James, the successor to Elizabeth, when he was acquainted with his character, would any of them so readily consent to support him in his design, as this princess had done. However, the new allies whom he daily gained in Germany (*g*), and even in Italy, comforted him a little for the loss of Elizabeth. The truce (*h*) between Spain and the Low Countries may also be numbered among the incidents favourable to it.

Yet, if we consider all the obstacles which afterwards arose in his own kingdom, from the protestants, the catholics, the clergy, nay, even from his own council, it will appear as if all things conspired against it. Could it be imagined that Henry, in his whole council, should not find one person besides myself to whom he could, without danger, disclose the whole of his designs? or that the respect due to him could scarcely restrain those apparently most devoted to his service from treating as wild and extravagant chimeras whatever of the plan he had, with greatest circumspection, revealed to them? But nothing discouraged Henry, who was an able politician and a better judge than all his council and kingdom. When he perceived that, notwithstanding all these obstacles, affairs began, both at home and abroad, to appear in a favourable situation, he then considered the success as infallible.

Nor will this his judgment, when thoroughly considered, be found so presumptuous as from a slight examination it may to some appear. For what did he hereby require of Europe?

(*f*) Philip II. of Spain died in 1598.

(*g*) Notably Maurice of Hesse, the Elector Palatine, the Duke of Wurtemberg, and the Elector of Brandenburg.

(*h*) In 1609.



Nothing more than that Europe should promote the means whereby he proposed to stabilise Christendom in that position towards which it had, by his efforts, been tending for some time. These means he rendered so easy of execution that for their fulfilment there would be required scarcely as much as the princes of Europe would voluntarily sacrifice for advantages less real, certain or durable. What they would gain by it, besides the inestimable benefits arising from peace, would greatly exceed all the expenses they would incur. What reason then could any of them have to oppose it? and, if they did not oppose it, how could the house of Austria support itself against powers who would have risen as open and secret enemies in the hope of depriving it of that strength which it had used only to oppress them? In other words, the house of Austria would have to face a united and hostile Europe. Nor would these princes have any reason to be jealous of the restorer of their liberty, for he was so far from seeking to re-imburse himself for all the expenses which his generosity would hereby involve, that his intention was voluntarily and for ever to relinquish all power of augmenting his dominions, not only by conquest, but by all other just and lawful means.

By this he would have convinced all his neighbours that his whole design was to save, both himself and them, those immense sums which the maintenance of so many thousand soldiers, so many fortified places, and so many military expenses requires; to free them for ever from the fear of those bloody catastrophes so common in Europe; to procure them an uninterrupted repose; and, finally, to unite them all in an indissoluble bond of security and friendship, after which they might live together like brethren, and reciprocally visit like good neighbours without the trouble of ceremony and without the expense of a train of attendants which princes use at best only for ostentation and frequently to conceal their misery. Does it not indeed reflect shame and reproach on a people who affect to be so polished and refined in their manners that all their pretended improvements have not yet guarded them from these barbarities which they detest in nations the most savage and uncultivated? To destroy these pernicious seeds of confusion and disorder, and prevent the barbarities of which they are the cause, could any

scheme have been more happily and perfectly contrived than that of Henry the Great?

Here then is all that could be reasonably expected or required. It is only in the power of man to prepare and act, success is the work of a more mighty hand. Sensible people cannot be blamed for being prejudiced in favour of the scheme in question, from this circumstance only, that it was formed by the two potentates whom posterity will always consider as the most perfect models of the art of governing. In regard to Henry in particular I insist that it belongs only to princes who, like him, have had a constant succession of obstacles to encounter in all their designs. These are the princes who alone are privileged to judge what are real obstacles; and when we behold them willing to lay down their lives in support of their opinions, surely we may abide by their sentiments, without fear of being deceived. For my own part, I shall always think with regret that France, by the blow which it received from the loss of this great prince, was deprived of a glory far superior to that which his reign had acquired. There remains only to explain the several parts of the design, and the manner in which they were to be executed. We will begin by what relates to religion.

Two religions principally prevail in Christendom, the Roman and the Reformed; but, as this latter admits of several variations in its worship, which render it, if not as uniform as the roman, at least as far from being re-united, it is therefore necessary to divide it in two, one of which may be called the reformed, and the other the protestant religion (*i*). The manner in which these three religions prevail in Europe is extremely various. Italy and Spain remain in possession of the roman religion, pure and without mixture of any other. The reformed religion subsists in France with the roman, only under favour of the edicts, and is the weakest. England, Denmark, Sweden, the Low Countries, and Switzerland, have also a mixture of the same kind, but with this difference, that in them the protestant is the governing religion, the others are only tolerated. Germany unites all these and in several of its circles, as well as in Poland, shews them equal favour. I say nothing of Muscovy and Russia. These vast

(i) That is, the Calvinist and the Lutheran.

countries, which are not less than six hundred leagues in length and four hundred in breadth, being in great part still idolaters, and in part schismatics, such as Greeks and Armenians, have introduced so many superstitious practices in their worship, that there scarce remains any conformity with us among them; besides, they belong to Asia at least as much as to Europe. We may indeed almost consider them as a barbarous country, and place them in the same class with Turkey, though for these five hundred years, we have ranked them among the christian powers.

Each of these three religions being now established in Europe in such a manner that there is not the least appearance that any of them can be destroyed and experience having sufficiently demonstrated the inutility and danger of such an enterprise, the best therefore that can be done, is to preserve, and even strengthen all of them in such a manner that indulgence may not become an encouragement to the production of new sects or opinions which should carefully be suppressed on their first appearance. God Himself, by manifestly supporting what the catholics were pleased to call the new religion, has taught us this conduct which is not less conformable to the Holy Scripture than confirmed by its examples; and besides, the unsurmountable difficulty of forcing the pope's authority where it is no longer acknowledged renders what is here proposed absolutely necessary. Several cardinals equally sagacious and zealous and even some popes as Clement VIII. and Paul V. were of this opinion (*k*).

All therefore that remains now to be done is to strengthen the nations who have made choice of one of these religions in the principles they profess, as there is nothing in all respects so pernicious as a liberty in belief; and those nations, whose inhabitants profess several or all these religions should be careful to observe those rules necessary to remedy the ordinary inconveniences of a toleration in other respects beneficial. Italy, therefore, professing the roman religion and being moreover the residence of the popes, should preserve this religion in all its purity, and there would be no hardship in obliging all its

(*k*) Though it was Clement VIII. who absolved Henry, neither he nor his successor, Paul V. can be credited with very advanced views on toleration.

inhabitants either to conform to it or quit the country. The same regulations, very nearly, might be observed in regard to Spain. In such states as that of France where there is at least a governing religion, whoever should think the regulation too severe, by which calvinism would be always subordinate to the religion of their prince, might be permitted to depart the country. No new regulations would be necessary in any of the other nations, no violence on this account, but liberty unrestrained, seeing this liberty is become even a fundamental principle in their governments (l).

Thus we may perceive every thing on this head might be reduced to a few maxims, so much the more certain and invariable, as they were not contrary to the sentiments of any one. The protestants are very far from pretending to force their religion upon any of their neighbours by whom it is not voluntarily embraced. The catholics doubtless are of the same sentiments, and the pope would receive no injury in being deprived of what he confesses himself not to have possessed for a long time. His sacrificing these chimerical rights would be abundantly compensated by the regal dignity with which it would be proper to invest him and by the honour of being afterwards the common mediator between all the christian princes, a dignity which he would then enjoy without jealousy and for which it must be confessed the papal office has shown itself, by sagacious conduct, most peculiarly fitted.

Another point of the political scheme which also concerns religion, relates to the infidel princes of Europe, and consists in forcing out of it those who refuse to conform to any of the christian doctrines of religion. Should the grand duke of Muscovy or czar of Russia, who is believed to be the ancient khan of Scythia, refuse to enter into the association after it is proposed to him, he ought to be treated like the Sultan of Turkey, deprived of his possessions in Europe, and confined to Asia only, where he might, as long as he pleased, and without any interruption from us, continue the wars in which he is almost constantly engaged against the Turks and Persians.

(l) That is, so long as their rulers neither change their religion nor are succeeded by rulers of a different religion. Sully's view on toleration is simply the orthodox "*cujus regio, eius religio*."



To succeed in the execution of this plan will not appear difficult if we suppose that all the christian princes unanimously concurred in it. It would only be necessary for each of them to contribute, in proportion to their several abilities, towards the support of the forces and all the other incidental expenses which the success of such an enterprise might require. These respective quotas were to have been determined by a general council of which we shall speak hereafter. The following is what Henry the Great had himself conceived on this head. The pope for this expedition should have furnished eight thousand foot, twelve hundred horse, ten cannons, and ten galleys; the emperor and the circles of Germany, sixty thousand foot, twenty thousand horse, five large cannons, and ten galleys or other vessels; the king of France, twenty thousand foot, four thousand horse, twenty cannons, and ten ships or galleys; Spain, Britain, Denmark, Sweden, and Poland, the like number with France, observing only, that these powers should together supply what belonged to the sea-service in the manner most suitable to their respective conveniences and abilities therein; the king of Bohemia, five thousand foot, fifteen hundred horse, and five cannons; the king of Hungary, twelve thousand foot, five thousand horse, twenty cannons, and six ships; the duke of Savoy, or king of Lombardy, eight thousand foot, fifteen hundred horse, eight cannons, and six galleys; the republic of Venice, ten thousand foot, twelve hundred horse, ten cannons, and twenty-five galleys; the republic of the Swiss cantons, fifteen thousand foot, five thousand horse, and twelve cannons; the republic of Holland, twelve thousand foot, twelve hundred horse, twelve cannons, and twelve ships; the Italian republics, ten thousand foot, twelve hundred horse, ten cannons, and eight galleys; the whole together amounting to about two hundred and seventy thousand foot, fifty thousand horse, two hundred cannons, and one hundred and twenty ships or galleys, equipped and maintained at the expense of those powers, each contributing according to his particular proportion.

This armament of the princes and states of Europe appears so inconsiderable and so little burdensome, when compared with the forces which they usually keep on foot to awe their neighbours, or perhaps their own subjects, that were it to have subsisted,



even perpetually, it would not have occasioned any inconvenience and would have been an excellent military academy. But since the enterprises for which it was destined, would not always have continued, the number and expense might have been diminished in proportion to the necessities which would have remained a constant factor. Moreover I am convinced that such an armament would have been so highly approved of by all these princes that after they had, with its help, conquered all those territories in Europe (which they would not willingly share with a stranger), they would seek to unite with these conquests such parts of Asia as are most commodiously situated and particularly the whole coast of Africa which is too near to our territories for our complete security. The only precaution to be observed in regard to these additional countries would have been to form them into new kingdoms, declare them united with the rest of the christian powers, and bestow them on different princes, carefully observing to exclude those who before bore rank among the sovereigns of Europe.

That part of the design which may be considered as purely political turned almost entirely on a first preliminary which, I think, would not have met with more difficulty than the preceding article. This was to divest the house of Austria of the empire and of all the possessions in Germany, Italy, and the Low Countries; in a word, to reduce it to the sole kingdom of Spain, bounded by the ocean, the Mediterranean, and the Pyrenean mountains. But that it might, nevertheless, be equally powerful with the other sovereignties of Europe, it should have Sardinia, Majorca, Minorca; and, in the other islands on its own coasts, the Canaries, the Azores, and Cape-Verde, with its possessions in Africa, Mexico and the American islands belonging to it: countries, which alone might suffice to found great kingdoms, finally, the Philippines, Goa, the Moluccas, and its other possessions in Asia.

From hence a method seems to present itself whereby the house of Austria might be made amends for what it would be deprived of in Europe, which is to increase its dominions in the three other parts of the world by assisting it to obtain and by declaring it the sole proprietor both of what we do know and what we may here-

after discover in those parts. We may suppose that on this occasion it would not have been necessary to use force to bring this house to concur in such a design and, indeed, even on this supposition it was not the prince of this house reigning in Spain, to whom these parts of the world were to be subjected, but to different princes, of the same or of different branches, who in acknowledgment of their possessions should only have rendered homage to the crown of Spain or, at most, a tribute as due to the original conquerors. This house, which is so very desirous of being the most powerful in the world, might hereby have continued to flatter itself with so pleasing a pre-eminence without the other powers being endangered by its pretended grandeur.

The steps taken by the house of Austria to arrive at universal monarchy which evidently appear from the whole conduct of Charles V. and his son have rendered this severity as just as it is necessary and I will venture to say that this house would not have had any reasonable cause to complain of it. It is true it would be deprived of the empire; but impartially considered it will appear that all the other princes of Germany and even of Europe have an equal right to it. Were it necessary to prove this we need only recollect on what conditions Charles V. himself, the most powerful of them all, was acknowledged emperor; conditions, which, at Smalcalde, he solemnly swore to observe, in presence of seven princes or electors and the deputies of twenty-four protestant towns, the landgrave of Hesse and the prince of Anhalt being speakers for them all. He swore never to act contrary to the established laws of the empire, particularly the famous Golden Bull, obtained under Charles IV., unless it were to amplify them and even that only with the express consent and advice of the sovereign princes of Germany; not to infringe nor deprive them of any of their privileges; not to introduce foreigners into their council; not to make either war or peace without their consent; not to bestow honours and employments but on natives of Germany; not to use any other but the German language in all writings; not to levy any taxes by his own authority, nor apply any conquests which might be made, to his own particular profit. He, in particular, formally renounced all pretences of hereditary right in his house to the imperial dignity and according to the

several articles of the golden bull he swore never in his life-time to recognize a king of the Romans. When the protestants of Germany, after they had in a manner driven Ferdinand out of it, consented to have the imperial crown placed on his head, they were careful to make him renew his engagements in regard to all these articles and to all these new regulations relative to the free exercise of their religion.

As to the possessions of the house of Austria in Germany, Italy, and the Low Countries, acquired by tyrannical usurpation, it would, after all, be only depriving it of territories which it keeps at so prodigious an expense (I speak, in particular, of Italy and the Low Countries) as all its treasures of the Indies have not been able to defray: and besides, by investing it with the exclusive privilege above-mentioned, of gaining new establishments and appropriating to its own use the mines and treasures of the three other parts of the world, it would be abundantly indemnified; for these new acquisitions would be at least as considerable, and undoubtedly far more rich, than those already held. But what is here proposed must not be understood as if the other nations of Europe were excluded from all commerce with those countries; on the contrary, it should be free and open to every one and the house of Austria, instead of considering this stipulation, which is of the greatest consequence, as an infringement of its privileges, would rather have reason to regard it as a farther advantage.

From a farther examination and consideration of these dispositions I do not doubt but the house of Austria would have accepted the proposed conditions without being forced to it; but, supposing the contrary, what would a resistance have signified? The promise made to all the princes of Europe of enriching themselves by the territories of which this house was to be divested, would deprive it of all hopes of assistance from any of them.

Upon the whole then it appears that all parties would have been gainers by it and this was what assured Henry the Great of the success of his design. The empire would again become a dignity to which all princes, but particularly those of Germany, might aspire. This dignity would become so much the more desirable that, although in accordance with its original institution

no revenues would be annexed to it, the emperor would be declared the first and chief magistrate of the whole christian republic. And as we may suppose this honour would afterwards be conferred only on the most worthy, all his privileges in this respect, instead of being diminished, would be enlarged; his authority over the Belgic and Helvetic republics would be more considerable and upon every new election they would be obliged to render him a respectful homage. The electors would still continue to enjoy the right of electing the emperor as well as of maintaining the king of the Romans; with this restriction only, that the election should not be made twice together out of the same family. The first to have been elected in this manner was the elector of Bavaria (*m*), who was also, in consequence of the partition, to have had those territories possessed by the house of Austria which joined to his own on the side of Italy.

The rest of these territories were to have been divided and equally distributed by the kings of France, England, Denmark, and Sweden among the Venetians (*n*), the Grisons (*o*), the duke of Wurtemberg, and the marquis of Baden, Anspach, and Dourlach (*p*). Bohemia was to have been constituted an elective kingdom by annexing to it Moravia, Silesia, and Lusatia. Hungary was also to have been an elective kingdom and the pope, the emperor, the kings of France, England, Denmark, Sweden, and Lombardy were to have had the right of nomination to it and because this kingdom may be considered as the barrier of Christendom against the infidels, it was to have been rendered the most powerful and able to resist them. This was to have been done by adding to it the monarchy of Austria, Styria, Carinthia, and Carniola and by afterwards incorporating with it

(*m*) Of the German princes, the Elector of Bavaria was the most consistent ally of France at the time when Sully was compiling his Memoirs. On several occasions he was the French nominee for the imperial dignity.

(*n*) Traditionally at enmity with her Spanish and Italian neighbours, the policy of Venice constantly gravitated to alliance with France. Moreover, she was the one "liberal" State in an ultramontane world.

(*o*) The Grisons were Protestants, and were of paramount importance in Richelieu's foreign policy because they controlled one of the Alpine passes into Italy.

(*p*) These German princes were members of the Evangelical Union formed in 1608 to secure the religious integrity of their respective States, to vote in the Diet as one body, to settle their own disputes by arbitration, and to maintain an army for defence. Henry IV. was godfather of this league.



whatever might be acquired in Transylvania, Bosnia, Sclavonia, and Croatia. The same electors were to have obliged themselves, by oath, to assist it upon all occasions and they were to have been particularly careful never to grant their suffrages from partiality, artifice, or intrigue but always to confer the dignity on a prince who, by his great qualifications, particularly for war, should be generally acknowledged as most proper. Poland being, from its nearness to Turkey, Muscovy, and Tartary in the same situation with Hungary was also to have been made an elective kingdom by the same eight potentates; and its power was to have been augmented by annexing to it whatever should be conquered from the infidels adjoining its own frontiers and by determining in its favour those disputes which it had with all its other neighbours. Switzerland, when augmented by Franche-comté, Alsace, Tyrol, and other territories was to have been united into a sovereign republic governed by a council or senate, of which the emperor, the princes of Germany, and the Venetians were to have been umpires.

The changes to be made in Italy were that the pope should be declared a secular prince bearing rank among the monarchs of Europe and under this title should possess Naples, Apulia, Calabria and all their dependencies, which should be indissolubly united to St. Peter's patrimony. But in case the holy father had opposed this, which indeed could scarce have been supposed, the disposition must then have been changed and the kingdom of Naples would have been divided and disposed as the electoral kings should have determined. Sicily was to have been ceded to the republic of Venice, by letters from the same eight principal potentates, upon condition that it should render homage for it to every pope, who should bear the title of Immediate Chief of the Whole Italian republic; otherwise (for this reason) called The republic of the Church. The other members of this republic were to have been Genoa, Florence, Mantua, Modena, Parma and Lucca, without any alterations in their government. Bologna and Ferrara were to have been rendered free cities and all these governments were every twenty years to have rendered homage to the pope their chief, by the gift of a crucifix of the value of ten thousand crowns.



Of the three great republics of Europe, it appears, upon the first glance, that this would have been the most brilliant and the richest. Nevertheless, it would not have been so; for what belonged to the duke of Savoy was not comprised herein. His territories were to have been constituted one of the greatest monarchies of Europe, hereditary to males and females, and to have borne the title of the kingdom of Lombardy; wherein, beside the territory so called, the Milanese and Montserrat would also have been comprised. The duke of Mantua, in exchange for these, was to have the duchy of Cremona. An authentic testimony of the institution would have been given by the pope, the emperor and the other sovereigns of the christian republic.

Among all these different dismemberings, we may observe that France reserved nothing for itself but the glory of distributing them with equity. Henry had declared this to be his intention long before. He even sometimes said, with equal moderation and good sense, that were these dispositions once firmly established, he would have voluntarily consented to have the extent of France determined by a majority of suffrages. Nevertheless, as the districts of Artois, Hainault, Cambresis, Tournay, Namur and Luxembourg might more suitably be annexed to France than to any other nation, they were to have been ceded to Henry but divided into ten distinct governments and bestowed on so many French princes or lords, all of them bearing rank as sovereigns (*q*).

In regard to England it was precisely the same: this was a determined point between Elizabeth and Henry, the two princes who were authors of the scheme. This was probably due to an observation made by this queen, that the Britannic isles, in all the different states through which they had passed, whether under one or several monarchs, elective, hereditary, masculine or feminine, and among all the variations of their laws and policy, had never experienced any great disappointments or misfortunes, but when their sovereigns had meddled in affairs out of their little continent. It seems, indeed, as if they were concentrated in it even by nature, and their happiness appears to depend entirely on themselves and their having no concerns with their neighbours,

(*q*) Compare this with statements in second paragraph of p. 46. Sully might have removed this inconsistency if he himself had ever reduced the scheme to a composite whole.

provided that they seek only to maintain peace in the three nations subject to them, by governing each according to its own laws and customs. To render every thing equal between France and England, Brabant from the dutchy of Limbourg, the jurisdiction of Malines, and the other dependencies on Flemish Flanders, Gallican or Imperial, were to have been formed into eight sovereign fiefs, to be given to so many princes or lords of this nation.

These two parts excepted, all the rest of the seventeen United Provinces, whether belonging to Spain or not, were to be erected into a free and independent state under the title of the Belgic republic; though there was one other fief to be formed from them, bearing the title of a principality, to be granted to the prince of Orange; also some other inconsiderable indemnities for three or four other persons. The succession of Cleves was to have been divided among those princes whom the emperor would have deprived of it, as well as among some other princes of the same district, to whom the imperial towns situated therein would have been granted. Even Sweden and Denmark, though they were to be considered as under the influence of the same law which England and France had imposed on themselves, would, by this distribution, have enlarged their territories and acquired other considerable advantages. An end would have been put to the perpetual trouble which agitated these two kingdoms and this, I think, would have been rendering them no inconsiderable service. All these cessions, exchanges, and transpositions towards the north of Germany were to have been determined by the kings of France, England, Lombardy, and the republic of Venice.

And now perhaps the purport of the design may be perceived, which was to divide Europe equally among a certain number of powers and in such a manner that none of them might have cause either of envy or fear from the possessions or power of the others. The number of them was reduced to fifteen and they were of three kinds: six great hereditary monarchies, five elective monarchies, and four sovereign republics. The six hereditary monarchies were France, Spain, England or Britain, Denmark, Sweden, and Lombardy; the five elective monarchies were the Empire, the Papacy or Pontificate, Poland, Hungary, and

Bohemia; the four republics were the Venetian, the Italian, or what, from its dukes, may be called the ducal, the Swiss, Helvetic or Confederate, and the Belgic or Provincial republic.

The laws and ordinances proper to cement a union between all these princes and to maintain that harmony which should be once established among them, the reciprocal oaths and engagements in regard both to religion and policy, the mutual assurances in respect of the freedom of commerce and the measures to be taken to make all these partitions with equity and to the general content and satisfaction of the parties: all these matters are to be understood; nor is it necessary to say any thing of the precaution taken by Henry in regard to them. The most that could have happened would have been some trifling difficulties which would easily have been obviated in the general council, representing all the states of Europe the establishment of which was certainly the happiest invention that could have been conceived for preventing those innovations often introduced by time into the wisest and most useful institutions.

The model of this general council of Europe had been formed on that of the ancient Amphictyons of Greece, with such alterations only as rendered it suitable to our customs, climate, and policy. It consisted of a certain number of commissaries, ministers, or plenipotentiaries from all the governments of the christian republic, who were to be constantly assembled as a senate, to deliberate on any affairs which might occur; to discuss the different interests, pacify the quarrels, clear up and determine all the civil, political, and religious affairs of Europe, whether within itself or with its neighbours. The form and manner of proceeding in the senate would have been more particularly determined by the suffrages of the senate itself. Henry was of opinion that it should be composed of four commissaries from each of the following potentates: The Emperor, the Pope, the kings of France, Spain, England, Denmark, Sweden, Lombardy, Poland, and the republic of Venice; and of two only from the other republics and inferior powers, which all together would have composed a senate of about sixty-six persons, who should have been re-chosen every three years.

In regard to the place of meeting, it remained to have been

determined whether it would be better for the council to be fixed or ambulatory, divided in three, or united into one. If it were divided into three, each containing twenty-two magistrates, then each of them must have been fixed in such a centre as should appear to be most commodious, as Paris or Bourges for one, and somewhere about Trente and Cracovia for the two others. If it were judged more expedient not to divide their assembly, whether fixed or ambulatory, it must have been nearly in the centre of Europe and would consequently have been fixed in some one of the fourteen cities following: Metz, Luxembourg, Nancy, Cologne, Mayence, Treves, Francfort, Wurtzbourg, Heidelberg, Spire, Strasbourg, Bale, Bezancon.

Besides this general council, it would perhaps have been proper to have constituted some others, of an inferior degree, for the particular convenience of different districts. For example, were six such created, they might have been placed at Dantzic, Nuremberg, Vienna, Bologna, Constance and the last, wherever it should be judged most convenient for the kingdoms of France, Spain, England and the Belgic republic. But whatever the number or form of these particular councils might have been, it would have been absolutely necessary that they should be subordinate, and recur, by appeal, to the great general council, whose decisions, when considered as proceeding from the united authority of all the sovereigns, pronounced in a manner equally free and absolute, must have been regarded as so many final and irrevocable decrees.

But let us quit these speculative designs, in which practice and experience would perhaps have caused many alterations; and let us come to the means actually employed by Henry to facilitate the execution of his great design.

To gain one of the most powerful princes of Europe, with whom to concert all his designs, was what Henry had always considered as of the utmost consequence: and this was the reason, that after the death of Elizabeth, who had indissolubly united the interest of the two crowns of France and England, every means was used which might inspire her successor, king James, with all her sentiments. Had I but succeeded in the solemn embassy, the particulars of which I have related already, so far as to have



gained this prince's consent to have his name appear openly with Henry's, this military confederacy, especially if it had, in like manner, been strengthened with the names of the kings of Denmark and Sweden, would have prevented the troubles and difficulties of many negotiations: but nothing farther could be obtained of the king of England than the same promises which were required of the other courts; namely, that he would not only not oppose the confederacy, but, when Henry had made his designs public, would declare himself in his favour, and contribute towards it in the same manner as the other powers interested therein. A means was indeed afterwards found to obtain the execution of this promise, in a manner so much the more easy as it did not disturb the natural indolence of this prince. This was, by getting what he hesitated to undertake in his own name, executed by his son, the prince of Wales, who, as soon as he had obtained his father's promise (that he would at least not obstruct his proceedings), anticipated Henry's utmost wishes, being animated with a thirst of glory, and desire to render himself worthy of the esteem and alliance of Henry, for he was to marry the eldest of the daughters of France. He wrote me several letters upon this subject and expressed himself in the manner I have mentioned. He also said that the king of France might depend on having six thousand foot and fifteen hundred horse, which he would undertake to bring into his service whenever they should be required: and this number was afterwards augmented by two thousand more foot, and eight cannons, maintained in all respects at the expense of England for three years at least. The king of Sweden did not shew himself less zealous for the common cause; and the king of Denmark also appeared to be equally well disposed in its favour.

In the mean time we were indefatigable in our negotiations in the different courts of Europe, particularly in the circles of Germany and the United Provinces, where the king, for this purpose, had sent Boissise, Fresne-Canaye, Baugy, Ancel, and Bongars. The council of the States were very soon unanimous in their determinations: the prince of Orange sent the sieurs Malderet and Brederode from them to offer the king fifteen thousand foot and three thousand horse. They were soon followed



by the landgrave of Hesse, and the prince of Anhalt, to whom as well as to the prince of Orange, the confederacy was obliged for being increased by the duke of Savoy; by all of the reformed religion in Hungary, Bohemia, and lower Austria; by many protestant princes and towns in Germany; and by all the Swiss Cantons of this religion. And when the succession of Cleves, which the Emperor shewed himself disposed to usurp, became another incentive to the confederacy, there was then scarce any part of Germany that was not for us; which evidently appeared from the result of the general assembly at Hall (*r*). The elector of Saxony, who perhaps remained alone of the opposite party, might have been embarrassed in an affair out of which he would probably have found it difficult to extricate himself; and this was to have been done by recalling to his memory the fate of the branch of John Frederic, deprived of this electorate by Charles V. (*s*).

There were several of these powers, in regard to whom I am persuaded nothing would have been risked, by disclosing to them the whole intent and scope of the design. On the contrary, they would probably have seconded it with the greater ardour when they found the destruction of Austrian grandeur was a determined point. These powers were more particularly the Venetians, the United Provinces, almost all the protestants, and especially the evangelics of Germany. But as too many precautions could not be taken to prevent the catholic powers from being prejudiced against the new alliance in which they were to be engaged, a too hasty discovery, either of the true motives, or the whole intent of the design, was therefore cautiously avoided. It was at first concealed from all without exception and afterwards revealed but to a few persons of approved discretion and those only such as were absolutely necessary to engage others to join the confederacy. The association was for a long time spoken of to others only as a kind of general treaty of peace, wherein such methods would be

(*r*) By the Treaty of Hall (1610), Henry IV. and the Evangelical Union agreed to support the Elector of Brandenburg and Count Philip of Neuburg in their claims to the Cleves-Julich territories.

(*s*) Presumably a threat. After the victory of Charles V. over the Protestants at Muhlberg (1547), the electorate of Saxony was transferred from the elder (Ernestine) to the younger (Albertine) branch of the family. There would therefore be good precedent for depriving the Elector should he refuse to conform.

projected as the public benefit and the general service of Europe might suggest as necessary to stop the progress of the excessive power of the house of Austria. Our ambassadors and agents had orders only to demand of these princes a renewal or commencement of alliance, in order more effectually to succeed in the projected peace; to consult with them upon the means whereby to effect it; to appear as if sent only for the purpose of joint enquiry into the discovery of these means. According to the disposition in which they found these princes, they were to insinuate, as if by accidental conjecture, some notion of a new method for maintaining the equilibrium of Europe and for securing to each religion a more undisturbed peace than it had hitherto enjoyed. The proposals made to the kings of England and Sweden, and the dukes of Savoy and Lorraine, for alliances by marriage, proved very successful: it was absolutely determined that the dauphin should espouse the heiress of Lorraine, which dutchy still continued, as before, to depend on the Empire.

But no precaution appeared so necessary, nor was more strongly recommended to our negotiators, than to convince all the princes of Europe of the disinterestedness with which Henry was resolved to act on this occasion. This point was indefatigably laboured, and they were convinced of it, when, on the supposition that it would be necessary to have recourse to arms, we strongly affirmed that the forces, the treasures, and even the person of Henry, might be depended on; and this in a manner so generous on his side, that, instead of expecting to be rewarded, or even indemnified for them, he was voluntarily inclined to give the most positive assurances, not to reserve to himself a single town, nor the smallest district. This moderation, of which at last no one doubted, made a suitable impression, especially when it was perceived to be so much the more generous, as there was sufficient to excite and satisfy the desires of all. And in the interim, before the solemn publication of this absolute renunciation, which was to have been made in the manifestoes that were preparing, Henry gave a proof of it, in the form of an absolute demonstration to the pope (*t*).

No one being ignorant that as it was, at least, intended to

deprive Spain of those of its usurpations which were the most manifestly unjust (Navarre and Rousillon would infallibly revert to France), the king therefore voluntarily offered to exchange them for the two kingdoms of Naples and Sicily and at the same time to make a present of both to the Pope and the republic of Venice. This, certainly, was renouncing the most incontestible right he could have to any of the territories of which this Crown was to be deprived; and by submitting this affair, as he did, to the determination of the Pope and the Venetians, he the more obviously obliged them, as both the honour and profit which might arise therefrom would be in their favour. The Pope, therefore, on the first proposition made to him, even anticipated Henry's intentions. He immediately demanded whether, as affairs were then circumstanced, the several powers would approve his taking upon him the office of common mediator, to establish peace in Europe and convert the continual wars among its several princes into a perpetual war against the infidels. This was a part of the design he had been very careful to acquaint him with: and the pope sufficiently shewed that he was desirous nothing should be done without his participation and that he was still less disposed to refuse the advantage offered to him.

Paul V. when a favourable opportunity offered, explained himself more openly on this head. Ubaldini, his nuncio, told the king that his holiness, for the confederacy against the house of Austria, would, on various pretences, engage to raise ten thousand foot, fifteen hundred horse, and ten cannons; provided that his majesty would promise to defray the necessary expenses of their subsistence for three years; would give all possible security for the cession of Naples, and the other rights of homage, according to promise; and would sincerely consent to the other conditions, in regard to the treaty that he should think necessary to impose. These conditions, at least the principal of them, were, that only catholics should be elected emperors; that the Roman religion should be maintained in all its rights, and ecclesiastics in all their privileges and immunities; and that the protestants should not be permitted to establish themselves in places where they were not established before the treaty. The king promised Ubaldini that he would religiously observe all these conditions

and farther, he relinquished to the pope the honour of being the arbitrator of all those regulations to be made in the establishment of the new republic.

The removing of these difficulties in regard to the pope was of no inconsiderable consequence for his example would not fail to be of great force in determining the other catholic powers, especially those of Italy. Nothing was neglected which might promote the favourable dispositions in which they appeared to be, by punctually paying the cardinals and petty princes of Italy their pensions, and even by adding to them several other gratuities. The establishment of a new monarchy in Italy was the only pretence these petty courts had for not joining in the confederacy; but this vain apprehension would be easily dissipated. The particular advantages which each would acquire might alone have satisfied them in this respect; but if not, all opposers might have been threatened with being declared, after a certain time, divested of all right to the proposed advantages and even of all pretensions to the empire, or the elective kingdoms; and that the republics amongst them should be converted into sovereignties, and sovereignties into republics. There is but little probability that any of them would even have demurred what to do. The punishment of the first offender would have compelled the submission of all these petty states, who were besides sufficiently sensible of their impotence. But this method was not to be used but on failure of all others; and even then, no opportunity would have been neglected of shewing them favour.

And now we are arrived at the point to which every thing was advanced at the fatal moment of the death of Henry the Great; and the following is a circumstantial detail of the forces for the war (*u*), which all the parties concerned had, in conjunction with him, agreed to furnish. The contingents of the kings of England, Sweden, and Denmark were each eight thousand foot, fifteen hundred horse, and eight cannons, to be raised and maintained, in all respects, at their expense, at least for three years; and this expense, reckoning ten livres a month for each foot soldier, thirty livres for each trooper, the pay of the officers included, and the year to be composed of ten months, would amount, for each of

(*u*) Compare these figures with those already given on p. 34.



these states, to three millions three hundred and seventy thousand livres for three years; the expense of the artillery, fifteen hundred livres a month for each piece being also included. The princes of Germany, before mentioned, were to furnish twenty-five thousand foot, ten thousand horse, and forty cannons: they had themselves computed the expense at nine or ten millions for three years. The United Provinces, twelve thousand foot, two thousand horse, and ten cannons: the expense twelve millions. Hungary, Bohemia, and the other evangelics of Germany, the same number, and nearly at the same expense. The Pope, ten thousand foot, fifteen hundred horse, and eight cannons. The duke of Savoy, eighteen thousand foot, two thousand horse, and twelve cannons. The Venetians, twelve thousand foot, two thousand horse, and twelve cannons. The expense of these last mentioned armaments the king himself had engaged to defray. The total of all these foreign forces, allowing for deficiencies, which might probably have happened, would always have been, at least one hundred thousand foot, from twenty to twenty-five thousand horse and about one hundred and twenty cannons.

The king, on his side, had actually on foot two good and well furnished armies; the first, which he was to have commanded in person, consisted of twenty thousand foot, all native French, eight thousand Switzers, four thousand Lansquenets or Walloons, five thousand horse, and twenty cannons. The second, to be commanded by Lesdiguières, in the neighbourhood of the Alps, consisted of ten thousand foot, one thousand horse, and ten cannons; besides a flying camp, of four thousand foot, six hundred horse, and ten cannons; and a reserve of two thousand foot to garrison such places where they might be necessary. We will make a general calculation of all these troops.

The twenty thousand foot, at twenty-one livres a month to each man, including the appointments of generals and officers, would, by the month, require four hundred and twenty thousand livres, and by the year, five millions and forty thousand livres; the eight thousand Switzers and four thousand Lasquenets, three millions; the five thousand horse, at sixty livres a month to each, by the month, would require two hundred and forty thousand livres, and by the year, two millions eight hundred and forty thousand livres.



This computation is made so high as sixty livres a month to each, because the pay of the officers, and particularly of the king's body-guard, composed of a thousand men of the first rank in the kingdom, who served as volunteers, was therein included. The expense of the twenty large cannons, six culverins, and four demi-culverins, supposing all necessary furniture for them provided, would amount to three thousand six hundred livres a month for each piece; the thirty together would consequently require one hundred and eight thousand livres. Extraordinary expenses and losses, in regard to the provisions and ammunition for his army, might be computed at one hundred and fifty thousand livres.

And for expenses, whether ordinary or extraordinary, in spies, for sick and wounded, and other unforeseen contingencies, computing at the highest, a like sum of one million eight hundred thousand livres. To supply the deficiencies which might happen in the armies of the confederate princes, to pay the pensions, and to answer other particular exigencies which might arise in the kingdom, three hundred thousand livres a month; for the year, three millions six hundred thousand livres. The army of Lesdiguières would require three millions a year; and as much for each of the armies of the Pope, the Venetians, and the duke of Savoy. These four last articles together, make twelve millions a year; which, added to the preceding sums amount in the whole to about thirty millions one hundred and sixty thousand livres a year.

It remains only to triple this total for three years, during which it was supposed there might be occasion for the forces, and the whole amount will appear to be between ninety and ninety-one millions, which might perhaps be necessary to defray the expenses of the intended war. I say perhaps, for in this calculation I have not included the flying camp, nor the two thousand men for garrisons: the first of these two, at the rate of eighteen livres a month to each foot soldier, and fifty livres to each trooper, would require a farther sum of about one hundred and thirty thousand livres a month; which, for a year, would be one million five hundred thousand livres, and four millions five hundred thousand livres for three years: the second for the three years, would require about twelve hundred thousand livres.

On a supposition that the expense of France, on this occasion, would not have amounted to more than between ninety and ninety-five millions (which supposition is far from being hazardous, because we have here computed every thing at the highest it would bear), it is easy to shew that, at the expiration of three years, Henry would have remaining in his coffers thirty millions over and above what would be expended, the total amount of all the receipts from the several funds, formed and to be formed for these three years, being one hundred and twenty-one millions five hundred and forty thousand livres, as appears from the three estimates which I drew up and presented to his majesty.

The first of these estimates, which contained only a list of the sums actually deposited in the Bastile, amounted to twenty-two millions four hundred and sixty thousand livres, in several coffers, marked Phelipeaux, Puget, and Boubier. The second was another list of the sums actually due from the farmers (*v*), partisans, and receivers-general which might be considered as in possession, and produced another total of eighteen millions six hundred and thirteen thousand livres. These two totals together made forty-one millions seventy-three thousand livres which the king would immediately have at his disposal. To acquire the rest of these hundred and twenty-one millions, I had no recourse, in the third estimate, to any new taxations. The whole remainder would arise solely from the offers of augmentation upon the several royal revenues which the farmers and partisans (*u*) had made for a lease of three years, and from what the officers of justice and the finances had voluntarily engaged to furnish, provided they might be permitted the free enjoyment of certain privileges: so that in these one hundred twenty-one millions, I had not comprehended the three years receipts of the other royal revenues. And in case it were afterwards necessary to have recourse to means somewhat more burthensome, I had given the king another estimate, whereby, instead of these one hundred and

(*v*) That is, the tax-farmers.

(*u*) The "partisans" were a hated class who, when ready money was short, would advance a portion ("parti") of the expected total yield of a tax and then recoup themselves by extracting the full amount of the tax from those on whom it was levied. Although Sully, as Superintendent of Finance, effected several reforms, he was never able to eradicate the vicious system by which, in the absence of a civil service, the taxes were batted upon by a host of human parasites.

twenty-one millions, it appeared that one hundred and seventy-five millions might have been raised. I also demonstrated, that, upon any pressing emergency, this kingdom could open itself resources of treasure that are almost innumerable.

It was very much to be wished that the sums of money and the number of men to be furnished by the other confederates would be equally well secured by such estimates. But whatever deficiencies might have happened, having forty-one millions to distribute wherever it might be found necessary, what obstacles could Henry have to fear from a power which was known to be destitute of money, and even of troops? no one being ignorant, that the best and most numerous forces which Spain had in its service were drawn from Sicily, Naples, and Lombardy or else were Germans, Switzers, and Walloons.

Every thing therefore concurring to promote success, and good magazines being placed in proper parts of the passage, the king was on the point of marching, at the head of his army, directly to Mezières; from whence, taking his route by Clinchamp, Orchimont, Beauraing, Offais, Longpré, &c. after having caused five forts to be erected in these quarters, and therein placed his two thousand men destined for that purpose, with the necessary provisions and ammunition, he would, near Duren and Stavelo, have joined the two armies, which the princes of Germany and the United Provinces would have caused to march thither. Thereupon beginning by occupying all those passages through which the enemy might find entrance into the territories of Juliers and Cleves, these principalities, which were a pretext for the armament, would consequently have immediately submitted to him and would have been sequestered, till it should appear how the Emperor and the king of Spain would act in regard to the designs of the confederate princes.

This was the moment fixed on to publish and make known throughout Europe, the declarations, in form of manifestoes, which were to open the eyes of all in regard to their true interests and the real motives which had caused Henry and the confederate princes thus to take up arms. These manifestoes were composed with the greatest care: a spirit of justice, honesty, and good faith, of disinterestedness and good policy, were every where apparent

in them. Without wholly revealing the several changes intended to be made in Europe, it was intimated that their common interest had thus compelled its princes to arm themselves; not only to prevent the house of Austria from getting possession of Cleves, but also to divest her of the United Provinces, and of whatever else she unjustly possessed; that their intentions were to distribute these territories among such princes and states as were the weakest; that the design was such, as could not surely give occasion to a war in Europe; that, though armed, the kings of France and the North rather chose to be mediators in the causes of complaint which Europe, through them, made against the house of Austria, and only fought amicably to determine all differences subsisting among the several princes; and that whatever was done on this occasion should be not only with the unanimous consent of all these powers, but even of all their people, who were hereby invited to give in their opinions to the confederate princes. Such also would have been the substance of the circular letters which Henry and the associated princes would at the same time send to all places subject to them; that so the people being informed, and joining their suffrages, a universal cry from all parts of Christendom would have been raised against the house of Austria.

As it was determined to avoid, with the utmost caution, whatever might give umbrage to any one, and Henry being desirous to give still more convincing proofs to his confederates that to promote their true interests was his sole study and design; to these letters already mentioned he would have added others to be written to different courts, particularly to the electors of Cologne and Treves, the bishops of Munster, Liège, and Paderborn and the duke and duchess of Lorraine. This conduct would have been pursued in regard even to our enemies, in the letters which were to be written to the archduke, and the infanta his wife, to the Emperor himself, and to all the Austrian princes, requesting them, from the strongest and most pressing motives, to embrace the only right and reasonable party. In all places, nothing would have been neglected, to instruct, convince, and gain confidence; the execution of all engagements, and the distribution or sequestration of whatever territories might require to be so disposed

would have been strictly, and even scrupulously, observed; force would never have been employed, till arguments, entreaties, embassies, and negotiations should have failed; finally, even in the use of arms, it would have been not as enemies, but pacifiers. The queen would have advanced as far as Metz, accompanied by the whole court, and attended by such pomp and equipage as were suitable only to peace.

Henry had projected a new method of discipline in his camp, which very probably would have produced the good effects intended by it, especially if his example had been imitated by the other princes his allies. He intended to have created four marshals of France, or at least four camp marshals, whose sole care should have been to maintain universal order, discipline, and subordination. The first of these would have had the inspection of the cavalry, the second of the French infantry, the third of the foreign forces, and the fourth of whatever concerned the artillery, ammunition, and provisions and the king would have required an exact and regular account from these officers of whatever was transacted by them in their respective divisions. He applied himself with equal ardour to make all military virtues revered and honoured in his army by granting all employs and places of trust to merit only, by preferring good officers, by rewarding good soldiers, by punishing blasphemies and other impious language, by shewing a regard both for his own troops and those of his confederates, by stifling a spirit of discord, caused by a difference of religions and, finally, by uniting emulation with that harmony of sentiments which contributes more than all the rest to obtain victory.

The consequence of this enterprise, with regard to war, would have depended on the manner in which the Emperor and the king of Spain would receive the propositions and their reply to the manifestoes of the confederate princes. It seems probable that the emperor, submitting to force, would have consented to every thing. I am even persuaded he would have been the first to demand an amicable interview with the king of France, that he might at least extricate himself with honour out of the difficulties in which he would have been involved and he would probably have been satisfied with assurances that the imperial dignity, with



all its rights and prerogatives, should be secured to him for his life. The archdukes had made great advances; they engaged to permit the king, with all his troops, to enter their territories and towns, provided they committed no hostilities in them and paid punctually, in all places, for whatever they required. If these appearances were not deceitful, Spain being abandoned by all, must, though unwillingly, have submitted to the will of its conquerors.

But it may be supposed, that all the branches of the house of Austria would, on this occasion, have united, and, in defence of their common interests, would have used all the efforts of which they were capable. In this case, Henry and the confederate princes would declare war in form against their enemies and deprived the Spaniards of all communications, especially with the Low Countries after having, as we have said, united all their forces, given audience to the princes of Germany, promised assistance to the people of Hungary and Bohemia who should come to implore it of them, and finally, secured the territory of Cleves. These princes would then have caused their three armies to advance towards Bale and Strasbourg to support the Switzers, who after having, for form's sake, asked leave of the emperor, would have declared for the union. The United Provinces, though at a considerable distance from these armies, would yet have been sufficiently defended by the flying camp, which Henry would have caused to advance towards them, by the arms of England and the North, to whose protection they would be entrusted, by the care which at first would have been taken to get possession of Charlemont, Maestricht, Namur, and other places near the Meuse, and finally, by the naval forces of these provinces, which, in conjunction with those of England, would have reigned absolute masters at sea.

These measures being taken, the war could have fallen only in Italy or Germany and supposing it to have happened in the former, the three armies of Henry, the prince of Orange, and the princes of Germany, quitting Franche-Comté, after having fortified it in the same manner as the Low Countries by a small body of troops, would have marched with their forces towards the Alps, where they would have been joined by those of Lesdiguières,

the pope, the Venetians, and the duke of Savoy. These latter would then have declared themselves openly; the duke of Savoy, by requiring a portion for his duchess, equal to what had been given to the infanta Isabella and the other powers, by demanding the execution of the agreement in regard to Navarre, Naples, and Sicily. Thus, from all parts of Europe, war would be declared against Spain. If the enemy should appear inclined to draw the war into Germany, then the confederates, having left a considerable number of troops in Italy, would have penetrated even into the heart of Germany, where, from Hungary and Bohemia, they would have been strengthened by those powerful succours which were there preparing.

The other events, in consequence of these dispositions, can only be conjectured, because they would greatly depend on the degree of alacrity with which the enemy should oppose the rapidity of our conquests and on the readiness with which the confederates, especially those at the extremity of Germany, should make good their engagements. Nevertheless, I am persuaded that, from the dispositions as here laid down, there are none but must regard the house of Austria as penetrated by the blow whose force was for ever to annihilate its power and open a passage to the execution of the other projected designs, to which this attack could only be considered as the preliminary. I will add too (and here the voice of all Europe will vindicate me from the imputation of partiality) that if the force necessary to render such an enterprise successful does always depend on the person of the chief who conducts it, this could not have been better conferred than upon Henry the Great. With a valour alone capable of surmounting the greatest difficulties and a presence of mind which neither neglected nor lost any opportunities; with a prudence which, without precipitating any thing, or attempting too many things at a time, could regularly connect them together and perfectly knew what might and what might not be the result of time; with a consummate experience; and finally, with all those other great qualifications, whether as a warrior or politician, which were so remarkable in this prince; what is there which might not have been obtained? This was the meaning of that modest device which this great king caused to be inscribed on some of the last medals that were struck under his reign, *Nil sine consilio*.

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## INTRODUCTION.

Huig de Groot, better known as Hugo Grotius, ranks amongst the world's greatest men. He wrote several books of highest distinction, but it is upon his *De Jure Belli* that his permanent fame rests. To introduce the following selection from that work, we propose here very briefly to sketch his life and indicate, from a particular point of view, his place and importance in the succession of international jurists.

Grotius was born in the year 1583 at Delft, then the political capital of the revolting Dutch Netherlands. His family had long occupied an influential position in the government of the city, and was also closely akin to many of the other Dutch ruling families of the period. His father, a wealthy and cultured man with important political associations, served his turn as burgo-master, and held the high office of Curator of the University of Leyden. His education, from its beginnings, was of the best offered in Holland, then the most vigorous child of the Renaissance. From his infancy, at home, he was nurtured in the humanities and science, in a circle in which the leading professors of the university—including Scaliger, Lipsius and Simon Stevin—were most honoured intimates. At the university itself, entering before he was twelve years of age and leaving at fifteen, Grotius, already in his earlier years having been the resident pupil of the most famous of Dutch divines, Uytenbogart, was the special protégé of Scaliger and dwelt beneath the roof of Francis Junius, the chief of the continental reformed clergy.

Upon leaving the university, Grotius was immediately introduced to the world of public affairs, and that under the wing of the great statesman, Barneveld. In his train the young Grotius journeyed on a diplomatic mission to France. Here he came into touch with Henry IV. and, later, remaining in the country after the departure of the diplomats, completed the study of the law at a

French university. At eighteen years of age he was back in his native land, established at The Hague, there, in association with Barneveld and the Dutch East India merchants, to settle down to the practice of the law. Within seven years he was successively Historiographer of Holland and Advocate-Fiscal, and, with a legal practice of the best class, a leader of the Dutch Bar. In 1613, just appointed Pensionary of Rotterdam, a high legal office which carried with it seats in the States of Holland and the Dutch States-General, he was included in a mission to England to oppose, on behalf of the Dutch East India Company, the principle of the freedom of the seas—the principle for which were fighting the English adventurers in the Far East (*a*). And during this visit to England, Grotius, as spokesman of a considerable party in his country, seized the opportunity personally to press King James to convene an international council to elaborate a scheme for reuniting the divided Churches of Christendom.

Back in Holland, after some intimate association with James I. and Casaubon, as also with Bishop Andrewes and other leaders of the English High Church party, Grotius threw himself into the Arminian controversy, in which, since its beginnings, he had taken a keen personal interest. Though apparently purely a theological contention, this, like most contemporary religious questions, was equally a struggle of political ideas. His side was that of the Arminians; his leader, Barneveld. Prince Maurice, the Stadtholder, stood for the other side, that of the Calvinists. Thus Grotius became a politician. And a politician, too, who—such was the course of events—was at the same time, in the judgment of his opponents, a conspirator against the peace and security of his country, and, as such, was eventually arrested and convicted and imprisoned for life. Barneveld was executed. But history, though completely justifying the policy of Maurice, does, almost with one voice, declare that Grotius was a true patriot and an injured man, unjustly and illegally condemned.

Imprisoned for life in the year 1619, at the age of thirty-six, the career of Grotius might be regarded as at an end. It was not

(*a*) There is a very general misconception both as to the date of the visit of Grotius to England and as to the object of the visit. It is somewhat of a shock to discover that the duty of the author of the *Mare Liberum*, which he most ably and quite readily performed, was to struggle for the principle of the *mare clausum* and counter the arguments of his own book.



so, however, for, managing to escape, he fled to France, arriving in Paris in April, 1621. There he remained, save for a short interval, for the rest of his life, an exile. And there, within the next few years, he wrote and published his great work, the *De Jure Belli*. But this was not a first book, the work of one who, hitherto exclusively a politician and man of affairs, had now, when fallen, turned to literature and philosophy in order to while away the tedium of banishment. As a fact, his natural bent had always been towards scholarship and literature, and it was not until he was well established in legal practice and deep in politics that he was able, apparently much against his inclinations, to resign himself primarily to the life of a man of affairs. And even then, far from losing touch with his old interests, he continued keenly to cultivate learning, never failing, also, to keep abreast with the progress of science.

As a child he had composed some warmly applauded Latin verse, and before he died he was acclaimed one of the three best Latin poets of his age. When only a boy, he had completed, with some assistance from Scaliger and his father, a critical edition of the *Satyricon* of Martianus Capella; at sixteen years of age he had translated into Latin, with an introduction of his own, Stevin's famous little handbook on navigation, *The Haven-Finder*; and at about the same time he brought out a new edition of the *Phenomena* of Aratus. Amongst other labours in the field of scholarship are editions of Theocritus, Lucan and Stobaeus. There are also two important original Latin tragedies. Of one of these, the *Adamus Exul* (sic), published in 1601, it has been charged against Milton that he deliberately plagiarised it in *Paradise Lost*. The other, *Christus Patiens*—its subject the Passion of our Lord—appeared in 1608, and secured for its author a wide and lasting reputation. In history he had published a work on the origins of the Dutch Republic, and, on politics, we have a number of works, all controversial, suggested by the politico-ecclesiastical difficulties of his day. Of greater importance, however, is a small work on the Dutch government, to be developed, later, in a posthumous treatise on sovereignty, *De imperio summarum potestatum circa sacra*, which, while deriving from postulates of political particularism the Dutch principles of religious toleration, immediately became a leading authority for the upholders of the *jus divinum*.

Theology, however, was his preoccupation. His poems, hitherto, had been very largely inspired by sacred subjects—his tragedies the tale of some Divine drama and his lesser and fugitive verse generally either comment on or paraphrase of Scripture. In prose, his distinction was as marked in this branch of literature as in any other he had touched, the most outstanding of his works of this period being his *Defensio fidei Catholicae*, which introduced an interesting modification of the traditional doctrine of the Atonement. In prison, even, Grotius had not been idle. He had written the first sketch of an introductory treatise on Dutch law—still a standard text-book—and also a slight work on Christian apologetics, which—defending, long before such a work was attempted in England, the Christian dogmas common to the various confessions—developed later on into the famous *Truth of the Christian Religion*, to be read and studied, until our own time, in almost every land and language.

But long before this he had written the *De Jure Praedae*, and published, in 1608, its twelfth chapter, the *Mare Liberum*—that great little legal classic in which he asserts the principle of the freedom of the seas, compelling reply from Welwood and Selden. This, Grotius had published anonymously; but that he was its author was quite well known five years afterwards, in 1613, when, in England, as practical man of affairs and advocate for the Dutch traders to the East, and against the English, he is to be found—as we have already noted—frankly and energetically repudiating and denying that principle with all the wealth of his dialectic and learning.

(So we have Grotius—scholar, poet, literary man and jurist, as well as politician and theological partisan. Already distinguished, too, in all. And, like so many of the great figures of his period, he was essentially a man of action, and a very human man too. His political activities and his escape from prison alone are proof of his alertness and vitality and untiring energy.) Though, on occasion, free and easy in his relations with the people, he was yet exclusive and aristocratic. He seems to have intensely loved personal display, association with the great, and sharing in the ruling of men and the intrigues of statecraft. He was a restless man, quick to defend, by arms or the duel, his cause or honour or even a mere point of etiquette—far, indeed, personally, from

being a "pacifist," whether in public affairs or in private. Yet, withal, his nature was a profoundly spiritual one. And this though his rivals and opponents found him to be a "busy" man, too "pushing" and somewhat unscrupulous and self-assertive, one with whom they must deal most warily—not one to be entirely trusted. Such is the man we find in France, an exile. And having regard to what he had already accomplished, to ~~the~~ <sup>the</sup> then political state of Europe, and to the bent of his genius, it is no matter for surprise that he determined to write a book, and that to be one on International Right. So it came about that, after working upon it during a period of just over two years, Grotius gave to the world, in the year 1625, his great masterpiece, the *De Jure Belli*.

The work commanded an instant and permanent reputation and success. Fifty-six editions can be counted. It became, for centuries, a leading text-book and was even made the subject of a special professorial chair.

At the foundation of the system of International Right—or, rather, perhaps, of ethics—which is so elaborately exposed by Grotius in this great work, lies the doctrine of Justice—very root and essence of that system. And this Justice, as he unfolds and applies it, has little or nothing in common with the justice so variously defined and developed in later and modern times. Grotius does not derive his doctrine from positive law. Nor, for him, has justice its yet deeper foundation in the conditions of human existence. On the contrary, the method of Grotius is deductive, save for some unconscious induction based upon material supplied by Roman law; and thus his doctrine of Justice is substantially identical with that which, for centuries before his day, had been gradually elaborated by the Catholic philosophers and divines, and at the Reformation taken over by the earlier Protestants. Its origins are to be found in Aristotle. But "the noble, beautiful, and altogether rational edifice" had been raised on the vestiges of Stoicism as found in Cicero, and on the writings of St. Augustine, most generally by scholastics, such as St. Thomas Aquinas—strongly influenced by the renascent Roman law—and, later, Soto, Molina and Suarez. In relation to fundamentals, the place of Grotius is thus in the line of the scholastic succession. Justice was for him the most important of the cardinal virtues—it might even be the sum of all the virtues.

It is a moral faculty or habit which perfects the will and inclines it to render to each and to all that which is their due.

Invested with God-given faculties—primordial, antecedent to and independent of society and State—man is under prime obligation to devote their exercise to a conduct of life in harmony with Divine intention. His right is the correlative of that obligation. His “natural rights”—that primordial right resolved by “the spectral analysis of the law of nature into its prismatic colours”—being derived through nature from their sacred source, are thus as inviolable as sacred. And these natural rights, together with all other man’s rights, whether granted by Church or State or acquired by his own industry and ability, are the object of the virtue of Justice.

Then, following the scholastics, Grotius insists upon the Aristotelian distinction between Expletory and Attributive Justice. A right in the strict sense, or a claim in justice, is not a merely vague and indefinite claim against others which they are always bound to respect. It is a moral and lawful faculty of doing, possessing, or exacting something. But when such a right is asserted it is Expletory or legal Justice that is invoked, as in a court of law, in order that he who invokes it may receive his due, for Expletory Justice requires that all should have what belongs to them. What principle, then, is it that determines what does belong to a man? That of Attributive Justice, which is administered by a society at large, a State, through a legislature rather than by a court of law, in exercise of its power to realise its own end without violation of the natural rights of its members or subjects. Its principle is that all the members of the society should each enjoy his “deserts,” that is to say, not his moral worth, but, so far as circumstances permit, his due share of the general weal, regard being had to his personal contribution thereto. And the claim which a man has to the exercise of this justice is termed an “aptitude,” or, in modern English, a moral right, as distinguished from a faculty, or legal right, which comes into existence only after an exercise of Attributive Justice in order that such justice may be enforced.

But Justice, or rather *jus*, has another and yet wider signification. It means law in its most general sense, that is to say, a “rule of moral acts obliging to that which is right” or “upright”—



“right” here including the matter not only of Justice but also of the other cardinal virtues. Only loosely can such right be called just, however, for its correlative, in many instances, may be but the object of a virtue which has no inherent association with obligation. This *jus*, Justice or law, is either Natural or Positive.

Natural Law—and here we seem to be thrown back by Grotius upon his fundamental conception of Justice as a virtue—deals not only with things made by Nature herself, but also with things produced by the act of man, and is immutable—unchangeable even by God Himself. It is the law of God as disclosed by Nature to the reason of man. It is, in fact, *jus* properly and strictly so called, and is derived from two sources—the tendency to the conservation of society and the free will of God. By this law things are obligatory or forbidden by their very nature, and man can by no means change their inherent characteristic. That there is such a thing as Natural Law is proved, *a priori*, by showing the agreement or disagreement of anything with the rational and social nature of man, and *a posteriori*, when by certain or very probable accounts anything is found to be accepted as Natural Law among all nations, or at least among the more civilised.

Here, Grotius must be regarded as attempting to develop a Protestant ethic, as foundation for a theory of world-unity, following a path which had already been opened up by Ockham and others, among the scholastics, and pursued more recently by the later scholastics as well as by the humanists and earlier reformers. Such an attempt was necessary and inevitable. The idea of the unity of the world had dominated all the political doctrines of the Middle Ages, the constitution of a Universal State—the only State of which the Middle Ages had, in general, any conception—having been regarded as the absolute good in itself and as the essential condition of universal peace. The sovereignty of that State had been resumed by the civilians in the Empire, on the basis of the civil law; by the canonists in the Roman Church, on the basis of the canon law; and, when Empire and Church existed as separate powers, there arose the doctrine of the Pope as vicar of God, the Lord of Heaven, and the emperor as regent of God, the Lord of the earth. Then, the Church having survived the Empire and ultimately lost its supremacy with the loss of its



moral authority, another foundation for the world-unity—which ideal still persisted—had to be found. And it was found in Natural Law.

Thus human reason, right reason, becomes the basis of the laws and institutions of society. It is for man to discover and apply, in Natural Law, the Divine Law. But though it is within the field of his own essential nature that man, aided by reason, must carry on this search, yet necessity, the voice of Nature, may, on occasion, be the only determinant. So Grotius claims—and to this extent, though not as absolute pioneer, he may be said to have separated jurisprudence from theology—that his theory would have been equally valid even if the existence of God were not conceded. And thus the jurists of the school of Grotius are not fast-bound to the idea of the supremacy of either Church or Empire or even of the Divine Law. The principle of the sociability and solidarity of independent States—not necessarily equal, however—founded on the interests of humanity at large and discoverable and applicable by human reason, is the foundation of their science, the characteristic of what is generally known as Protestant thought.

That which is left after this Natural Law is exhausted may—according to Grotius—be the subject of positive law, either Divine or human. And it is only subject to the provisions of Divine positive law that human positive law, that is to say, civil (municipal) law and *jus gentium* (the Law of Nations) is possible. But the Law of Nations is rarely to be found, it must be noted, apart or even distinguishable from Natural Law, and is, apparently, nothing but Natural Law itself in one of its aspects. It may, it would seem, be an expression of Attributive Justice, or moral right, or even an application in practice of any of the cardinal virtues—not only of Justice, but also, as they may be applicable, of temperance, courage, wisdom or charity. Utility, however, though at once the occasion and the sanction of human positive law whether civil or *jus gentium*, is not its source or impulse. More precisely—though Grotius is far from being generally consistent—*jus gentium* is that common human law which derives its authority from the unanimous approbation of all, or at least many, nations, but which, nevertheless, may differ in various parts of the world, though always evidenced, like the unwritten civil law, by continued use and the testimony of men skilled in the law. What real

difference, there is between *jus gentium* and Natural Law is that, while the former is derived, like the latter, from the principles of nature, yet it evolves, generally quite indistinguishable from Natural Law, only in the social relations introduced by that deterioration of human nature which was caused by the Fall of Man. And *jus gentium* may be distinguished, too, from the civil law—the former does not respect the advantage of any particular societies but of all in general. So “wise kings regard themselves as entrusted with the care of not one nation only but of all mankind.”

This conception of *jus gentium* is obviously very different from that of the Roman law. And Grotius himself seems to suggest that his Roman prototype is rather the fecial law. The true *jus gentium*, that of Rome, was municipal law, and not *jus inter gentes*—international law in the modern sense. It was composed of those principles and rules of private and public law which Rome, recognising them as being equally observed by, and in that sense common to, all peoples, herself applied in relation to matters outside the operation of the *jus civile*, as, for instance, in her dealings with other nations and in litigation between non-Romans and between Romans and non-Romans. The jurists of the Middle Ages, however, and, indeed, the more immediate precursors of Grotius, had no such conception of it.

It is said that the Grotian *jus gentium* was a return to that of St. Isidore of Seville; but that can hardly be the case. Though St. Isidore, leaving Natural Law entirely on one side, divides human or positive law into civil law and *jus gentium*, yet he does not define *jus gentium* (b). Instead, he enumerates twelve juridical topics, all of which—such as occupation of territory, war, treaties—belong or might belong to any system of *jus inter gentes*, or international law proper. And these topics are of *jus gentium* because the rules in relation to them are the same among nearly all peoples. *Jus gentium*, according to St. Isidore—who, it should be observed, writes not as a jurist but merely as an encyclopædic compiler, his one object being to place upon record only generally accepted contemporary doctrine—does not, therefore, proceed so much from first principles and theory to particular rules as from a practical desire

(b) St. Isidore also has a *jus militare*, which is a general military law, only merely procedural, apparently, when dealing with matters subject to *jus gentium*.

to bring under one head certain existing social conditions of an exceptional yet characteristic class. Gratian, five centuries afterwards, does no more than faithfully reproduce St. Isidore, designing thereby only to declare the law as it was then generally received and not to make it. But with the coming of scholasticism and the revival of jurisprudence this position was abandoned. At the same time there is an end of consistency and certainty. Nor is this surprising when the development of the theory is found to lie in the hands of four separate schools—each anxious to create for itself some characteristic doctrine—the civilians and the canonists, and the theologians who found their main inspiration in patristic philosophy, and the philosophers whose great authority was classical thought. Azo teaches that *jus gentium* is nothing else than that law which is observed by all peoples, as distinguished from all animals, and, subject to that distinction, is identical with Natural Law. It arises, apparently, only when social relationships have been established between men, and comprehends those rights which society necessarily involves, *e.g.* of religion, the person, child-nurture, family order, preservation and delimitation of property and national territory, and, in general, contract, and also, incidentally, war. And Bracton, emphasising regal privilege, closely follows Azo. With St. Thomas Aquinas, however, who “drew the great outlines for the following centuries,” *jus gentium* is deprived of almost everything precise and objective, and becomes entirely speculative, as a result of a philosophical effort, concentrating upon first principles and theory, devoted to placing it in a definite relation to or association with Natural Law. To *jus gentium*—it now appears—belong those things which are derived from Natural Law, “as conclusions from premisses, *e.g.* just buyings and sellings, and the like,” without which men cannot live together, “which is a point of nature,” since man is by nature a social animal, while those things which are derived from Natural Law “by way of particular determination,” belong to the civil law, according as each State decides on what is best for itself. And then, in the following century, while we find Bartolus apparently quite indifferent to *jus gentium* as such, save, perhaps, for some incidental recognition of its relation to such matters as territorial divisions and regal power, Legnano carefully identifies it with natural equity—the bare general equity of natural intelli-

gence. War, however, according to Legnano, arises from Natural Law as distinguished from *jus gentium*, which only regulates it. At about the same period—such is the confusion—while the Lombard enactments are, on occasion, styled *jus gentium* when compared with the Roman Law—the general or common law of Europe—it is being argued that the Italian municipal codes should take precedence of the Roman Law for the reason that the latter is only *jus gentium*. If we pass over another century we reach a period when jurists—Valla, Conanus—who, like Azo, do not agree that brutes come within Natural Law, are to be found denying that *jus gentium* can be distinguished at all from Natural Law. Soto—*qui scit Sotum scit totum* is the contemporary jingle—has been classed with these, but he has also been interpreted as teaching that while Natural Law is apprehended without human effort because of the dictates of Nature, *jus gentium* is a living body of examples and precedents—the contribution of all peoples—whose precepts or lesson can be known, though only with difficulty, and should be followed, by pagans equally with Christians. Other jurists, Budaeus and Oldendorp, for instance, teach simply that *jus gentium* is that which is common to all men, that is, received everywhere as law. It is the authority of men rather than that of Nature. It is the law of many peoples, just as the civil law is the law of the individual. And Cujas holds that it is natural equity, common to all mankind—born with us and known to all. So we reach a period immediately preceding that of Grotius. To Ayala Natural Law is the law of that “ blameless primitive time ” which “ pagans used to call the Golden Age,” when all things were in common and nothing belonged to any individual, *jus gentium* having its origin in the succeeding age, when primitive conditions were no longer adapted to man’s “ debased nature,” developing, under the guidance of natural reason, with the new and increasingly complex society. Gentilis, Protestant and founder of modern International Law, makes no pretence at being a philosopher, or at being versed in the subtleties of the schools, whether theological or juridical. He has the appearance of being only a plain and practical lawyer. He notices only two of the prevailing theories of *jus gentium*, and specifically adopts neither. One is that which assigns to it those laws, based on reason, common to most peoples, and identifies it with Natural



Law, and the other is that which attributes to it the common God-given unwritten law of mankind, found in the human heart or nature rather than instituted by reason. For himself, without actually repudiating either of these theories, he is content to search the writings of the philosophers and even the poets of antiquity—for are not their views based upon observation and experience?—the Scriptures and the Fathers, the civil law and history and political literature. In such manner he may discover a common law of nations. This position is not far from that of Suarez, the philosopher of the schools. Philosophically, *jus gentium* is to him an equivocal expression, suggesting, at best, something lying almost indeterminate between Natural Law and human law and partaking of the character of each. Practically regarded, however, it is Divine Law and the common usage of mankind interpreted in the light of reason. And it is to be found in two relations. In the one it is that law which obtains within a political society—its common law—and is substantially identical with a similar law to be found in all, or nearly all, other such societies. It is thus the common private law of the world, and thus, in effect, only an aspect of Natural Law. But in the other relation it is that law which all political societies must observe in their intercourse one with the other. Mankind, according to Suarez—and here he falls into line with the idea of the heterodox Ockham—has a certain unity, though actually divided into various peoples and States. And this unity is not only “specific” but also “quasi-political and moral.” No such people or State, however perfect it may be in itself and homogeneous in its constituents, is altogether self-sufficient and independent, but, on the contrary, has an inherent need of the help and society of, and intercourse with, other peoples or States. A State, like a man, is a social being. Hence the need and existence of rules of law as between political societies; and these rules, *jus gentium*, are to be gathered from international usage and tradition.

So it appears that the very concrete conception of *jus gentium* of St. Isidore had disappeared centuries before the day of Grotius, giving place to a highly abstract and speculative doctrine so subtle and vague—if, indeed, we can extract it at all from the foregoing very inadequate summary—that the generations of scholastic theologians and jurists who undertook to define and develop it



only rendered it the more obscure and uncertain the more they discussed it. And it is this scholastic doctrine—and certainly not the *jus gentium* of Rome—that Grotius adopts, his version varying from those, or any of those, of his precursors much, generally, as their versions had varied as between themselves.

Only slightly more definitely than his precursors could Grotius escape the domination of the idea that the main relation of *jus gentium* was to “corporeal bodies”—individual men; rather than—to use the expression of Legnano—to those “mystic bodies,” societies or States. Nor can he, when dealing with first principles, distinguish it with certainty from Natural Law, which so frequently in his great work, even in connections where *jus gentium* might be expected to reign supreme, thrusts that law aside and itself almost exclusively commands the situation. Thus, when discussing that most important question, whether war can ever be lawful, Grotius deals first and at length with Natural Law, and then, in but a few sentences, with *jus gentium*, which, he says, may be but another name for Natural Law. So, declining the teaching of the Roman Law and firm in the view that slavery involves nothing inconsistent with natural justice, he justifies and founds that condition by and on Natural Law—in this case a very exiguous conception—and not *jus gentium*. Then, as for the place he assigns to human reason, the scholastics assigned the same. Human reason, according to St. Thomas, is nothing else than an imprint on us of the Divine light, or rather—as he also puts it—man has a share of the Eternal Reason, whereby he has a natural inclination to his proper act and end, such participation of the eternal law in the rational creature being called the Natural Law. And this is the doctrine of the Thomists down to and including Suarez. And thus only most vaguely are Natural Law and human law dependent upon the Divine Law.

Where, then, does the system of the *De Jure Belli* substantially differ from that of its predecessors? Shortly in this, that the jurisprudence of the scholastics begins and ends with general principles, discussed, almost always, most abstractly, while that of Grotius, beginning with the same general principles so discussed, yet proceeds at once to its conclusions through a most comprehensive and systematic body of particular and concrete illustration. We say illustration—and herein is a signal defect in the method of

Grotius—for, notwithstanding such difference, he seems to be living in and writing for the ancient world rather than in and for the world of his day. Unlike others, as Gentilis, who were then opening up the same ground—or even Ayala—he has no concern whatever for contemporary or recent precedent. A fable from classical mythology is more to him than an incident in the international relations of the Dutch. But nevertheless his association in one system of the practical with the merely theoretical was a striking and important achievement, and largely explains the influence his work was destined to exert.

It is therefore no redundancy that the full title of this work is more extensive in its suggestion than that of its first and best-known part, *De Jure Belli*. This must not only always be read with the *ac Pacis*, but also as introductory to the rest—including the *Law of Nature and of Nations and the Principal Points of Public Law*. The work is really a practical treatise on Natural Law. It is that law, as interpreted and supported, where possible, by positive Divine Law—which supplies its foundation and inspires its main propositions. Except in relation to the obvious, the Law of Nations is nothing else than Natural Law.

But of the whole work only a small part, and that at the opening, is devoted to general theory. About a half of the remainder is a discussion of municipal law, public and private. This, while professedly a deduction from Natural Law and *jus gentium* elaborated to smallest details, is actually an exposition of Roman Law and a bold application of its principles to international relations in certain particular matters, as, for instance, newly-discovered territory, diplomacy, and treaties; and the work concludes with a system of law of war indistinguishable in the main from the work of his predecessors. But it is that detailed exposition of municipal law, public and private—at once an apparent deduction from Natural Law, and also a point of departure for developing the laws of international relations and war—that determined the great influence of the work. Henceforth Natural Law was not only the warrant for municipal law, but also, through or in the latter—public and private rights being barely distinguished—the apparent foundation for a practical system of International Law. So, amongst many other principles,

*usucapio* and prescription are applied to the relations of Sovereigns and States, the rights of a landowner to those of a King, and the doctrine of justifiable homicide to the problem of war. And Western civilisation having the future it did, there was but one possible future for this book. The work of a Protestant, so modern, popular, and convenient in method and form, it must supplant the less comprehensive work of Gentilis, and render henceforth unnecessary the elaborate and interminable *a priori* efforts of Suarez and his predecessors of the schools.

The learning of these, his precursors, had not been surpassed, nor had it hardly been approached. Nor was there a more perfect dialectic, a greater breadth of vision, or a deeper humanism or warmer charity to be found in this newcomer into the field of juridical literature. It was that Europe, with feudalism in its death-throes and Church and Empire riven asunder, had urgent need of a general theory of the State, of the nation, and its organisation. The contractual theory of government was now rising out of the dissolving feudal system, and here was Grotius frankly developing that theory by a bold assimilation of public powers to private rights. So it was the general course of events, the very atmosphere of a rapidly changing and developing Europe, that determined the reputation and influence that the *De Jure Belli* was to enjoy and to command.

Wherever justice is established, there, in the resulting unity, peace will inevitably be found. That—it must not be overlooked—is the one principle that above all others breathes throughout the work. It is not especially Grotian, though, for it can be found as a dominant influence throughout the long length of classical and mediæval political thought. St. Augustine, adopting Cicero's definition of a republic, had long before stereotyped the idea for the scholastics. It is, however, the principle that in the hands of Grotius was to suggest the great part which the notion of contract could play in any system of international right. According to Grotius, every political society is based upon contract between its members, the first contract of all, one, simply declaratory of the law of nature, by which its members emerge from the state of nature. These members, too, move amongst themselves within their society by contract. So can and should move all the political societies within the great human society;

for the plan of the world includes societies or States, as well as individuals or citizens, with all the relative inequalities of the latter, and contract involves the idea of the right, of justice, and always of obligation and good faith. Wherever, therefore, in international affairs there is an absence of contract, or, there being contract, justice is wanting and bad faith prevails, anarchy or war alone will exist. It is this theory in particular, involving, as it does, the fundamental conception of Natural Law, that makes the transition from the mediæval to the modern point of view.

So Grotius may be said to be a pacifist, but only in theory and with peace as no more than ideal. At best he is merely partizan of peace—the advocate of peace because of its general expediency. His theory is simply an advocate's argument; and if by peace we are to understand an era of perpetual peace, it is difficult to regard Grotius as having at any time even barely considered its possibility. He himself was not in the slightest degree a pacifist in relation to his personal interests. As poet he sang the glories as well as the horrors of war—on rare occasion his muse almost inspired; as historian, though often depicting its miseries, he never stigmatised it generally as essentially unjust or inexpedient; as politician and diplomatist he would have had recourse to war for no other cause than that it might further his particular policy; as jurist and philosopher his sole great concern was that war should be waged only for just cause and as a last resort, and then only lawfully; and as theologian he never forgot that just warfare, as an institution, was divinely approved.

The key to the position of Grotius is to be found in the dedicatory epistle addressed to Louis XIII. It is Louis "the Just" to whom he insistently appeals that Justice may enter into her own in international affairs, and Peace, obviously only in relation to the existing wars, then reign throughout Christendom as long as possible. The aim of Grotius is to develop and insist upon the idea of justice. So let there be an era of international contract and good faith; and then, with princes satisfied as to the moral and material expediency of peace, and determined not to resort to arms save reluctantly and for undoubted good cause, even the widest international differences may perhaps be composed, if not by the parties themselves, by mediators, arbitrators,



or even international congresses. So war may become less and less frequent, and, if regard be had to his rules, less horrible.

Grotius was forty-two years of age when he published the *De Jure Belli*; and having published it, he immediately turns his attention to other interests and projects without any real idea that he had already accomplished that which was to be his most enduring monument. This, his latest effort, had not even suggested specialisation on the same lines. His ambition, keen as ever, was of the same indeterminate, restless, and eclectic character as before. Though his reputation as jurist was now established, his interest in legal science seems very largely to have disappeared. He would now, as in his earlier years, be poet, philologist, scholar, and theologian, and, in particular, protagonist of religious peace. But to live he must find some occupation of profit, and it was to diplomacy that he turned.

For some years he sought an opening. In 1635 he was appointed ambassador of Sweden in Paris; and so he finds himself settled in France in a definite and distinguished position, and occupied with work that best appealed to him. As representative of the chief actor with France in the Thirty Years' War, it might be his task to negotiate the peace that must one day come. But on his diplomatic activities we have no space to dwell. Shortly, they are a chapter in the usual tale of political dispute, intrigue, and negotiation incident to a "world-war." Grotius seems to have played his part honestly, and generally to the satisfaction of his principals, but at the same time without quite all the tact and finesse desirable. Doubtless his soul was in his study, and the intellectual society of which Paris was then the centre and in which he occupied a distinguished position. He was continuously at work in the field of scholarship and history. His separately published works number ninety-five altogether, of which no fewer than four hundred and sixty-two editions and translations are known. He completed, amongst other works, an enormous critical commentary, or *Annotationes*, on the Scriptures, a labour of great philological, exegetical, and historical value, which placed him in the ranks of the pioneers of the higher criticism. His one great pre-occupation, however, was the reunion of the Churches. He remained throughout his life a member of the Reformed Church, but his sympathies gradually so widened in relation to



discipline and ritual as to embrace a strong inclination towards episcopal and even Roman Catholicism. Perhaps the Anglicanism of Bishop Andrewes was the ecclesiastical system that most appealed to him, and there is no doubt that in the Anglican Church he saw the nucleus of any possible reunion. But his doctrinal standpoint was always indefinite. While, on the one hand, he retained in principle a profound faith in revelation, he yet, on the other, adopted a critico-historical and rationalistic style of treatment which would seem to be hardly consistent with the existence of that faith if we overlook the essential rationalism of Scholasticism, and, indeed, of Catholicism itself.

It is, however, in the light of its author's undoubted bias—faith in revelation—that, notwithstanding its formal rationalism, the *De Jure Belli* must be read and can alone be appreciated. Grotius was the boy who, pupil of Uytenbogart and Francis Junius, had undertaken the conversion of his mother, the young man who, inclining toward literature, had composed the *Christus Patiens* and the *Adamus Exul* and a whole volume of minor sacred and devotional verse, and who, throwing himself into public life, became champion of Arminianism, and strove, even with Kings, to further the great cause of Christian reunion and peace. His career checked and diverted by political chance, he yet remains throughout his life devotedly faithful to his first and greatest call. As in his earlier years he wrote a juridical work, the *De Jure Praedae*, including in that his famous *Mare Liberum*, because of the need of answer to the Mennonite theology, so in his maturity he gave to the world the *De Jure Belli* as the protest of a true believer—only incidentally a jurist—against the increasing lust of political Christendom for lawless and unconscionable war. Then, save for the time he must of necessity devote to the immediately practical interests of life, and some time he found, as for recreation, for literature and scholarship, he returns once for all to matters theological and ecclesiastical. His interest in the *De Jure Belli* and its destiny is but the slightest. His one dominating thought is religion—the Scriptures and the Church. His one ambition—to help forward the cause of religious peace by and through a reunited Church.

In 1645 he was at Stockholm, resigning his diplomatic appointment. Returning in August, he takes ship for Lübeck, but storms

force a landing at Danzig. Weather-beaten and ill, making his way overland, he reaches Rostock, too feeble to journey further. In three days' time, on the 29th, his ardent, restless spirit at length found the Unity where there shall be no more war; and on earth, for generations, men were to dispute whether he had died Protestant or Romanist. As a fact he died a Christian only, though formally in the Reformed Faith.



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SELECTIONS FROM THREE BOOKS  
ON  
THE RIGHTS OF WAR AND PEACE  
INCLUDING THE LAW OF NATURE AND OF NATIONS,  
AND THE PRINCIPAL POINTS OF PUBLIC LAW.

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## PROLEGOMENA.

1. Many have undertaken to explain or summarize, either by commentaries or abridgments, the civil law of Rome and other nations; but few have dealt with that law which exists between several peoples or rulers of peoples, whether it be that derived from Nature herself or instituted by Divine decrees or created by custom and tacit agreement; and no one at all has so far discussed it generally and in systematic fashion, although it is of importance to mankind that this should be done.

2. Rightly indeed has Cicero called this a pre-eminent science, including as it does the alliances, treaties, and stipulations of peoples, kings, and foreign nations, and, in short, the whole law of war and peace. And Euripides gives to this science precedence even before a knowledge of things divine and human, and so makes Helen thus speak to Theone: "It would be disgraceful that you should know the present and future of men and gods, and yet not know what justice is."

3. And the more necessary is this work inasmuch as in both our own and past time there are not, and have not been, wanting those who have despised this branch of law as though it were nothing more than merely an empty name. The words of Euphemus, according to Thucydides, that "a king, or a State, can do nothing unjust when acting in his or its own interest," are in almost everyone's mouth; and to this may be added the like saying, that "for those who enjoy supreme power the right is on the side of the power." Again, "A State cannot be preserved without inflicting some injury." And, let us add, the disputes that arise between peoples or kings usually have Mars as arbiter. Nor is it the opinion only of the common people that war is a stranger to all justice; for words often fall from learned and judicious men which support the same idea. Nothing indeed is

more frequent than placing law and arms in opposition to each other. Ennius, for instance, has said: "They gain their right by force of arms, not by law." And Horace thus describes the fierceness of Achilles: "Law he spurns as not for him existing, and claims all by arms"; and another poet introduces another warrior, when beginning a war, as saying: "Now I renounce peace and violate laws." Antigonus, though old, laughed at a man who offered him a treatise on justice at a time when he was laying siege to some towns that did not belong to him. And Marius said he could not hear the voice of the laws because of the clash of arms. Even the modest Pompey had the effrontery to say: "Am I, who am armed, to think of laws?"

4. In the Christian writers occur many passages in the same sense; let one from Tertullian suffice for all: "Fraud, cruelty, injustice, are the proper business of battles." Now those who are of this opinion will undoubtedly oppose to me that of Terence: "You that attempt to fix by certain rules things so uncertain, may with like success strive to go mad and yet preserve your reason."

5. But since a discourse upon this kind of law would be vain if in fact there were no such law, then, at once as recommendation and defence of our work, it will be necessary briefly to refute this most gross error; and that we may not have to deal with a mob of opponents, let us assign to them an advocate. And who better than Carneades, who attained such perfection in what was the supreme aim of his philosophical school that he could argue with the full force of his eloquence no less easily in favour of the false than for the truth? He, when he undertook to argue against justice, and especially that part of it with which we are now concerned, found no stronger contention than this: Laws were instituted by men as their own advantage suggested, he urges, different as their customs differed, and even in the same society frequently changing with the times; and so there is no such thing as Natural Law. For all men and other living creatures are moved by Nature towards their own interests; and so either there is no justice at all, or, if there be any, it is supreme folly, inasmuch as in consulting the interests of others it injures itself.

6. But one certainly ought not to grant what the philosopher here says and the poet adopts: "Nature cannot distinguish

between the just and the unjust." For though man is certainly a living creature, yet he is an extraordinary one, differing, as he does, much more from all other kinds of animals than these do amongst themselves; a fact which is proved by the many faculties characteristic of mankind. Now one of the most striking of these faculties is man's desire for society, that is, for a life, peaceable and not spent anyhow, of association with those of his own kind, ordered in manner appropriate to his intelligence—a desire termed by the Stoics the domestic instinct. So one should not concede the proposition when applied so generally—that Nature leads every creature to seek only its own interests.

8. This guarding of society which we have now but roughly described, consonant as it is to human intelligence, is the very spring of that law, properly so called, to which belong the following rules—that one must abstain from that which belongs to another; that one must restore that which one holds and which belongs to another, or the profit made thereout; that promises must be fulfilled; that reparation must be made for the consequences of wrongdoing; and that the punishment of a man may be deserved.

9. And from this signification of law proceeds another yet more extensive. Man, above all other creatures, enjoys not only this social faculty of which we have just spoken, but also judgment to decide what actions are to his advantage or are harmful to him not only at the moment but in the future, and even the consequences resulting therefrom. Hence it may be concluded that it is conformable to human nature to follow in these matters a judgment rightly formed, regard being had to the limitations of the human mind, and not be misled either by fear or by the temptation of present advantage or be carried away by reckless impulse. Whatever, indeed, is obviously repugnant to such a judgment is also contrary to Natural Law, that is to say, to the Law of Human Nature.

10. And here we meet with the question of the exercise of wise discretion in the distribution to each individual or body of men of that which should be his or theirs; so that in some cases the wiser man is preferred to the less wise, a neighbour to a stranger, or a poor man to a rich, according as the merit of each act or the nature of the thing requires. Many authors, indeed, both ancient and modern, regard this as within the province of law properly



so called, notwithstanding such law has a very different nature, restricted as it is to permitting what belongs to another to be left with him or requiring what is his due to be paid.

12. Now we come to another origin of law, besides that of Nature, namely, the free will of God, to which, as our understanding infallibly dictates, we must be subject. . . .

13. . . . God, by the laws which He has given, has rendered these principles more clear and evident, even to those whose minds are less capable of strict reasoning. And He has also forbidden submission to those reckless impulses which, contrary to our own and others' good, prevent us observing the rules of reason and Nature; and thus does He control and restrain, within certain limits, our more violent passions.

15. Again, since it is by Natural Law that compacts are to be observed (because it was necessary that there should be some means by which men could be bound to one another, and no other natural mode can be imagined), it is from that same source that civil laws are derived; for those who had united themselves with any society, or subjected themselves to any man or men, either expressly promised, or from the nature of the case must be understood tacitly to have promised, that they would conform to whatever should be ordained either by the majority of the society or by those in whom authority was vested.

16. Therefore, that is untrue, if we speak accurately, which not only Carneades, but others, have said, that "Utility is the mother of the Just and the Right." For the mother of Natural Law is human nature itself, which would create in us a desire for mutual society even though our necessities should have no actual need of it. And the mother of civil law is that very obligation which arises from consent, and which, deriving its force from Natural Law, makes it permissible to term Nature the grandmother, as it were, of civil law. But utility is added to Natural Law; because the Author of Nature willed that we should be weak as individuals, and yet need many of the necessities of a complete life, so that we might the more eagerly desire the social life. Of civil law, however, utility is but the occasion; for that association or subjection of which we have spoken began just for the sake of some utility. So they who prescribe laws for others usually aim, or ought to aim, at some utility therein.

17. But as the laws of each community have in view the utility or advantage of that community, so between all or most communities some laws might be, and in fact are, established by consent, which aim at the utility not only of some particular community but of the whole in general. This is what is called the Law of Nations, as distinguished from Natural Law. And this part of law was omitted by Carneades, when dividing all law into Natural Law and the civil law of particular communities, notwithstanding he most certainly ought to have referred to it inasmuch as he was about to treat of the law between peoples—in fact, he proceeds with a discourse about war and acquisition by war.

18. And quite absurdly has Carneades traduced justice as folly; for since, by his own admission, that citizen is not a fool who obeys the law of his country, even though he consequently loses something to his advantage, so, therefore, that people is not foolish that for the sake of its own advantage does not disregard the laws common to all peoples. The principle is the same in each case. Inasmuch, indeed, as he who breaks the laws of his country for the sake of some present personal advantage thereby destroys that which secures the perpetual advantage of himself and his posterity, so, too, the people that violates the laws of nature and of nations breaks down the safeguards of its present and future peace. Moreover, even if no advantage were to be expected from the observance of law, yet it would be a point of wisdom, not of folly, to obey the impulse and direction of our own nature.

19. So, that other opinion is not universally true: “ ’Twas fear of wrong that made us make our laws ”—which a disputant in one of Plato’s Dialogues explains as meaning that the fear of receiving injury occasioned the invention of laws, and that it was by force that men were driven to the practice of justice. For this view has validity only in relation to those institutions and laws which were devised in order to facilitate the execution of justice. Thus, when many, individually feeble, lest they be oppressed by the stronger, combine to establish and maintain judicial institutions by their common strength, in order jointly to control those whom they, as individuals, could not deal with. In this sense we can even fairly accept what is elsewhere said in Plato, that law is that which pleases the stronger, understanding thereby, however,

that law fails to attain its external end unless it has the aid of force. Thus Solon accomplished very great things, as he himself claimed, "By linking Force in the same yoke with Law."

20. Yet law does not lose all its effect, even though deprived of the aid of force. For justice brings repose to the conscience; injustice torture and remorse, such as Plato describes as dwelling in the breasts of tyrants. The general consent of the upright, too, approves justice and condemns injustice. But what is the greatest point of all is that God is the Friend of justice and the Enemy of injustice, and reserves His judgments for a future life, though in such manner that He often manifests their power in this life, as history teaches by many examples.

21. There are many who, while they demand respect for justice in private citizens, regard it as unnecessary in nations and rulers of nations. This is wrong. The reason of the error is, primarily, that such people have regard for nothing in law other than the advantage arising from it, and which advantage is obvious in the case of private citizens, who, separately, are too weak to protect themselves. But great States, which seem to contain within themselves everything necessary for the maintenance of their well-being, have apparently no need of that virtue which respects the interests of others and is called justice.

22. But, not to repeat what I have already said, namely, that law was not instituted for the sake of utility alone, there is no State so strong but that sometimes it may need the assistance of others, either in commerce, or to repel the aggression of the combined forces of many foreign nations. Hence we see that alliances are desired even by the most powerful nations and kings; the whole principle of which is undermined by those who confine the operation of law within the limits of one State only. Most true is it, indeed, that everything is dissolved into uncertainty the moment the conception of law disappears.

23. If there is no society that can subsist without law, as Aristotle proved by the striking example of a band of robbers, then, certainly, law cannot be ignored by that society which is composed of all mankind, or, at least, a number of nations. . . .

25. There are people who teach that all laws cease in war. This, however, cannot be admitted. Rather, no war should be commenced except for the assertion of the right, or be carried on

except according to the measure of law and good faith. Demosthenes sensibly said that it is against those who refuse to be bound by judicial decree that war is rightly waged. For judgments have force against those who are sensible of their inability to resist them. Wars are the remedy against those who make, or think, themselves the equal of the judicial authority. Yet nevertheless, in order that warlike proceedings may be right, they must be carried out as conscientiously as judgments are accustomed to be executed.

26. So, therefore, only those laws that are civil and judicial and proper to times of peace, are silent amidst the clash of arms; but not those other laws that are perpetual and equally proper at all times. For, as Dio Prusæensis so very well said: "Written, that is to say, civil laws, have no force as between belligerents, but those laws are valid that are unwritten, that is to say, are dictated by nature or instituted by the consent of nations. . . ."

28. Now, being thus fully convinced, on the grounds I have just adduced, that there is some law common to all nations which applies both to the initiation of war and to the manner in which war should be carried on, there were many and weighty considerations impelling me to write a treatise on the subject of that law. I observed everywhere in Christendom a lawlessness in warfare of which even barbarous nations would be ashamed. Nations would rush to arms on the slightest pretext or even without cause at all. And arms once taken up, there would be an end to all respect for law, whether human or divine, as though a fury had been let loose with general licence for all manner of crime.

29. And the spectacle of this monstrous barbarity has led many men—in no wise extremists—to the opinion that all arms should be forbidden a Christian, whose rule of life is mainly the loving of all men. Those ardent lovers of peace, both ecclesiastical and civil, John Ferus and our countryman Erasmus, seem sometimes to incline to this opinion, though I believe that they do so on the principle that to straighten a bent stick one must bend it strongly the other way. But this attempt to force too much to an opposite extreme often does more harm than good, inasmuch as exaggeration, so readily apparent, detracts from the authority of a more reasonably advanced truth. A remedy must therefore be found for both schools of extremists—for those that believe



that in war nothing is lawful and for those for whom all things are lawful in war.

30. Moreover, I was anxious, by my private efforts, to promote the study and authority of jurisprudence, which I had formerly practised in public offices with all possible integrity; for this, indeed, is all that I can now undertake, having been shamefully banished from my native country, distinguished though it was by so many of my labours. Many, hitherto, have aimed at a scientific treatment of the subject, but no one has yet succeeded. Nor, indeed, is success possible, unless care be taken where, so far, there has been insufficient care, namely, in the strict separation of laws arising out of human compact from those derived from nature. These latter, being always the same, can easily be brought together in a system; but the former, which depend upon the human will, and so often change, and differ in different places, are outside the scope of scientific treatment, just as are other ideas of particular things.

31. But if the exponents of true justice would undertake the treatment of the several parts of that jurisprudence which is natural and perpetual, putting aside all derived from the free will of man, so that, for instance, one would treat of laws, another of tributes, another of the duties of judges, another of the ascertainment of intention, and another of evidence as to facts, we might eventually, by collecting all its parts, construct a *corpus* of such jurisprudence.



## BOOK I.

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### CHAPTER I.—WHAT WAR IS, AND WHAT RIGHT IS.

I. The disputes of those who are not bound by one common civil law, such as people who have not yet been incorporated into a State, have relation either to times of war or times of peace. So, too, the controversies of those, whether private persons or kings, who belong to different States. And so the differences of those who enjoy a sovereign power, such as, in a constitutional State, an aristocratic senate or even a popular assembly. But because war is waged with a view to peace, and there is no dispute whence war cannot spring, all disputes which usually arise are rightly treated under the head of the law of war. So war will lead us to peace, as its end and aim.

II. (1) Having therefore to treat of the law of war, we must discover what that war is with which we are concerned and what that law is which we seek. Cicero has called war “a dispute by force.” But custom has ruled that it is not the act, but the status, or condition, that is indicated by the word “war,” so that war is the status of those who so dispute. And in this general sense the term comprehends all those kinds of war which will be presently discussed, not even excluding private war, which is really more ancient than public war, with which it has, without doubt, a common nature, and so may have the same proper name. . . . (3) . . . We do not include justice in the definition, for that is precisely the point we are to discuss in this work—whether any war can be just and what war is actually just. But we must distinguish the subject of our discussion, “War,” from what we discuss in relation to it.

III. (1) In entitling this work “The Rights of War,” we regard as of first importance the problem we have just posed: Can any war be just, and, if so, what war is just? For in this connection “law” is to be taken in the sense of “right,” or, to put it

negatively rather than affirmatively, "law" or the "lawful," the "just" or the "right," is that which is "not unjust" or is not wrong. Now that is unjust which is repugnant to the nature of a rational society. So, as Cicero says, it is against nature to take from another to enrich oneself; and then he proves it by showing that if that were not so human society would necessarily be destroyed. . . . (2) But as there are some societies without inequality, as among brothers, citizens, friends, and allies, and some unequal—according to their respective excellency, as Aristotle terms it—as the relation between father and children, master and servant, king and subject, and God and man, so there is the one justice of those who have equality among themselves and the other of the ruler and the ruled. And we rightly call, if I am not mistaken, that of the latter class the Right of Superiority and the former the Right of Equality.

IV. There is, however, another and different meaning to the Right, or Justice, though derived from the same source, which may be referred to persons. In this sense the just is the moral quality of an individual capable of having or doing something justly. This right belongs to a person, though sometimes it relates to a thing, as in the case of a praedial servitude, when it is called a real right, as compared to one exclusively personal. This is not because a person has the thing, but because no one else has the right than he who has the thing itself. This moral quality, when perfect, is called by us a faculty. A less perfect quality is called an aptitude. To these correspond, in natural things, the act in the one case and the power in the other.

V. What jurists call a faculty we shall henceforth call a Right, properly or strictly so called; and in this term are included: (a) Power, when used over oneself, which is called liberty; (b) Authority, when power is used over others, as in the exercise of paternal or a master's rights; (c) Ownership or Property, either full, or, such as usufruct or pledge, less full; and (d) Credit, where one is entitled to a debt due from another.

VI. But, again, this faculty is double. It is either Private, when understood of a particular use, or Public—and superior to a private right—when exercised by a community over persons and things for the common good. Thus, the regal power has beneath it both the paternal and the master's right; and so, in relation

to the property of individuals, is the dominion of the King for the common good greater than that of the individuals themselves. Thus every citizen is under a greater obligation in relation to the public demands of the State than to the demands of his creditor.

VII. An aptitude is what Aristotle calls a moral desert or claim. . . .

VIII. (1) That is Expletory Justice, properly and strictly named justice, which has regard to faculty; and Aristotle terms such justice contractual. This term is too restricted, however, for it is not by force of any contract that he who detains my property should restore it to me, and yet that obligation of his comes within this class of justice. Wherefore Aristotle refers to it elsewhere, more happily, as Corrective Justice. Attributive Justice, called by Aristotle Distributive Justice, is that justice which has regard to aptitude. It is the companion of those virtues which are beneficial to others, such as generosity, mercy, and prudence in government. (2) According to Aristotle, Expletory Justice proceeds by simple proportion, and Attributive Justice by comparison—which latter is alone termed proportion by mathematicians. This distinction, however, though often true, is not so always. Nor, indeed, does Expletory Justice differ *per se* from Attributive in such a manner, but they differ, rather, as we have just pointed out, in their respective subject-matters. So, in a contract of partnership, the division is made according to a proportion of comparison. And if only one man is found to be fit for a public office Attributive Justice may confer it upon him by nothing else than simple reckoning. (3) Nor is it truer what is said by some—that common property is the subject of Attributive Justice and private property that of Expletory Justice. On the contrary, if anyone is about to dispose of his property by will it is to Attributive Justice that he usually has regard. And the State is no less bound by the obligation of Expletory Justice when it refunds from the common stock what private citizens have spent on public affairs. And this distinction was correctly learnt by Cyrus from his tutor, as would appear when Cyrus awarded the smaller coat to the younger boy and the greater to the older. . . .

IX. (1) Then there is a third signification of Right—that of Law, in the widest sense of the word, which is a rule of moral

acts obliging to what is right. "Obliging" is necessary, for advice and mere precepts, honoured, it may be, but not obliging, do not come within the idea of Law or Right in this sense. Permission is not properly an act of law but rather an inaction, except so far as it obliges another to raise no impediment to him to whom permission is given. But, as we have said, the obliging is to the right, not merely to the just, because the right in this sense belongs not only to the matter of justice alone, as we have already explained, but also to that of the other virtues. Still, what is right, as being barely just, may be loosely said to be just. (2) The most acceptable division of Right in this general sense is that of Aristotle. On the one hand, there is Natural Law, and, on the other, Voluntary Law, or, as he calls it, "Legal Law," or Positive Law, the word "law" being taken in its stricter sense. The Hebrews have the same division. . . .

X. (1) Natural Law is the dictate of right reason. It indicates whether an act is morally right or wrong, according as it complies or disagrees with rational nature itself. Such an act is consequently either prescribed or forbidden, as the case may be, by God the Author of Nature. (2) Acts about which there is such a dictate are either obligatory or unlawful *per se*, and so are to be understood as being necessarily prescribed or forbidden by God Himself; and this makes Natural Law differ not only from Human Law but also from Voluntary Divine Law, inasmuch as the latter does not prescribe or forbid those things which are obligatory or unlawful *per se* and by their own nature, but by forbidding them renders them unlawful and by prescribing them renders them obligatory. (3) But in order to obtain a just idea of Natural Law it must be noted that there are certain things said to belong to that law which do not belong to it properly, but, as the schoolmen love to say, reductively or indirectly. By this is meant that Natural Law is not opposed to them, just as—to repeat what we have said—some things are called just which have no injustice in them. Yet sometimes, by an abuse of the term, there are certain things which reason regards as decent, or as comparatively good, which, though not matters of obligation, are usually said to belong to Natural Law. (4) It must be known, moreover, that the Natural Law deals not only with things which exist independently of the human will, but also with many things

which are the consequence of some act of that will. So property, as it now exists, was introduced by human will. But once it is introduced, Natural Law itself indicates that it is wrong for me to take from you, against your will, that which is yours. . . . (5) And, besides, Natural Law is so immutable that even God Himself cannot change it. For though the power of God be boundless, yet it may be said that there are some things to which it does not extend. Indeed, when we speak of these things so, it is only in a manner of speaking which, so far from expressing anything at all, involves a manifest contradiction. Therefore, as it is impossible even for God so to make it that twice two are not four, so He cannot make that which is intrinsically bad not to be bad; and this is what Aristotle means when he says that of some things the name alone involves the idea of vice and depravity. For as the being of things, when and how they exist, does not depend on anything else, so with the properties necessarily involved in that being. Such is the evil of some actions when compared with a nature guided by right reason. And so even God suffers Himself to be judged according to this rule, as may be seen in Genesis, xviii. 25, &c. (6) Yet sometimes it happens that in these acts which Natural Law prescribes or forbids some show of change may mislead the superficial observer, Natural Law not in fact having changed, but only the subject-matter of the law. For instance, if my creditor give me a receipt for what I owe him, I am not then bound to pay him; not because Natural Law has ceased to require me to pay what I owe but because what I owe ceases to be a debt. . . . So if God should order someone to be slain, or his goods to be taken, murder or theft—words which involve the idea of vice—are not thereby made lawful. But that will not be murder or theft which is done by the express command of the Supreme Lord of life and property. (7) And there are certain things which accord with Natural Law, not absolutely, but according to circumstances. So community of property was a natural condition until private ownership had been introduced; and so also, before laws had been made, a man's assertion of his right by his own might.

XI. (1) But in the Roman law-books two classes of this immutable law are distinguished. There is that which is common to both men and animals, which they term, in the stricter sense,



Natural Law; and there is that which is peculiar to mankind, and which they often style the Law of Nations. This distinction, however, is of little or no practical use, for no creature is properly susceptible of law unless of a nature which can observe general precepts. . . . [So] we do not admit that there can be any idea of law in horses and lions. . . . (2) If at any time that idea be attributed to brutes, it is improperly so done, and only because some mere shadow or trace of reason is to be found in them. Indeed, it is quite immaterial to the problem of the actual nature of law whether a particular action, the subject of Natural Law, such as the upbringing of offspring, is common to us with other living creatures, or is one, such as the worship of God, that is peculiar to us only.

XII. (1) That anything is or is not of Natural Law is usually proved by arguments either *a priori* or *a posteriori*, the latter mode of proof being the more popular and the former the more subtle. It is proof *a priori* when there is shown the necessary agreement or disagreement with a rational and social nature of the thing in question. It is proof *a posteriori* if, without absolute certainty but yet with greatest probability, that is regarded as of the Natural Law which is so believed to be by all, or, at least, the more civilised peoples. And inasmuch as a universal effect requires a universal cause, no other cause can well be assigned for this general opinion than that general sense which is called common. . . .

XIII. The other kind of law, we told you, is Voluntary [Positive] Law, which has its origin in the will. And this is either Human or Divine.

XIV. (1) Let us begin with the human, because that is the more widely known. This is either Civil Law [national or municipal law] or law in a more restricted or in a wider sense. Civil Law is so called because it proceeds from the civil power; and it is that power which governs the State, which, in its turn, is a perfect union of free men associated for protection by law and for their common benefit. Law is a more restricted sense, not proceeding from the civil power itself, though subject to it, is various, including paternal precepts, a master's commands, and the like. But law in the wider sense is the Law of Nations, being that which derives its obliging power from the will of all

nations, or, at least, of many. We have said “of many,” because scarcely any law is to be found common to all peoples outside Natural Law, which itself is usually also called the Law of Nations. Rather, what is often the Law of Nations in one part of the world is not so in another, as we shall explain later on in connection with capture and *postliminium*. (2) And the Law of Nations is proved in the same manner as the unwritten Civil Law, namely, by long usage and the testimony of its professors; for this law, as Dio Chrysostom says, is “the invention of time and experience,” and here the great historians are of the greatest service to us.

XV. (1) What, now, is Voluntary Divine Law? We know quite well from the name itself. We know this at least—that it has its origin in the Divine will; and so it may be distinguished from Natural Law, which also, as we have already said, can in some sense be called Divine. And we here recall what Anaxarchus said, though too generally: “God does not will a thing because it is just; but it is just, that is legally obligatory, because He wills it.” (2) This law was given either to all mankind or to one people only. And we find that it was given by God to all mankind on three occasions—the first, immediately after the creation of man; the second, upon the reinstatement of mankind after the Flood; and the third, on man’s more sublime reinstatement through Christ. Without doubt these three laws oblige all men, as and when they acquire a sufficient knowledge of them.

XVI. (1—8) To only one people, the Hebrews, did God specially give laws, . . . the Mosaic Law, which binds only those to whom it was given, and not strangers. . . . Hence we may conclude that we are bound by no part of that law. . . .

XVII. (1) Since, therefore, the Mosaic Law cannot, as we have just shown, impose any direct obligation upon us, let us see if it can have any other use—first, in this matter of the laws of war, and, next, in other like questions. This is important in regard to many matters. (2) First, then, the Mosaic Law shows that its commands are not contrary to Natural Law. And because that law is eternal and immutable, as we have already said, it is impossible that God, Who is never unjust, should command anything contrary to it. Add to this that the Mosaic Law is called pure and right in several places in the Scriptures. . . .

## CHAPTER II.—WHETHER WAR CAN EVER BE JUST.

Having seen what are the sources of law, let us now come to the first and most general question, which is this: Can any war be just, or, in other words, is war ever lawful?

I. (1) But this question itself, as well as others which follow, must be first examined by reference to Natural Law. Cicero learnedly proves, in *De Finibus* and elsewhere, from the writings of the Stoics, that there are not only certain first principles of nature, but also, of higher value than these, there are certain other principles which are their consequences. He calls such a first principle that instinct which is born in and is common to all animals, by which each desires his own preservation and is impelled, on the one hand, to love his own well-being and to do all he can to maintain it, and, on the other, to avoid destruction and all that may tend to it. So there is no one who does not prefer to have all his limbs whole and fit rather than maimed and distorted. It is man's first duty to preserve himself in the state of nature, his next being to retain what is in conformity with nature and reject all that is opposed to it. (2) These things being premised, there follows the knowledge of how to conform our actions to reason rather than to the body. And this conformity, which involves the idea of the reasonable [*honestum*], must be regarded as far preferable to any merely bodily satisfaction, for the first principles of nature commend us to right reason as something which should be much dearer to us than those things by which we are brought to it. These things are absolutely true, and easily allowed, without further proof, by all men of sound judgment. So, in examining Natural Law we must first discover what agrees with the first principles of nature, and then we must proceed to that which, though of later origin, is yet more excellent and is not so much merely to be accepted when it presents itself as actually to be sought by every means. (3) But that which we call reasonable is more or less determined by circumstances. At

one moment it rests upon a point, so to speak, so that he who departs from it only to the least degree falls straight into evil. At another it stands upon a broader foundation, so that while he who respects it acts commendably, yet he may, without doing anything dishonourable, act at variance with it or even quite indifferently to it, determined, in his action, by the presence or absence of certain conditions. Between opposites of another class, such as black and white, something intermediate is found, either a tint approximating towards one or the other or a tint absolutely neutral. And it is in relation to this latter class of cases that we find laws, both divine and human, rendering that obligatory which in itself is only commendable. But, as we have already said, that which is to be discovered when Natural Law is in question, is whether a particular thing can be done without injustice. And what is necessarily repugnant to a rational and social nature is to be regarded as unjust. (4) There is nothing in the first principles of nature that is repugnant to war. On the contrary, everything rather favours it. For the object of war, which is the preservation of life and limb, and the retention or acquisition of things useful to life, is very agreeable to those first principles. And so, if to attain this object it is necessary to use force, those principles will offer no opposition, for nature has given strength to every living creature in order to defend and help itself. . . . (5) But right reason and the nature of society, which must be examined in the next and chief place, do not prohibit all force, but only that which is repugnant to society, namely, that which invades the right of another. For society, by its general strength and agreement, assures to each the safe possession of that which is his own. And this can easily be understood to be the case at a stage of social development in which what we now call private property had not come into existence, for even then a man's life, limb and liberty would so peculiarly belong to him that they could not be attacked by another without his suffering a distinct wrong. So also, to have used things that were then in common, and to have appropriated as much of them as nature required, would have been the right of a possessor, and he who would have invaded that right would have done the possessor a wrong. This, however, is now much more easily understood since private property has taken shape either by law or custom. . . . (6) It is therefore not



against the nature of society to provide for, and to take care of, one's self, provided the right of another is not infringed. And so that force which does not violate another's right is not unjust . . .

II. (1) What we have just said, that all war is not repugnant to Natural Law, may be further proved from sacred history. Thus, when Abraham, with his armed servants and allies, had vanquished the four kings who had plundered Sodom, God, through His priest Melchisedec, approved that deed. . . . Yet, as the story goes, Abraham had taken up arms without the special mandate of God. And so, Abraham being not only a very holy man but also a very wise one, as we learn even from the heathens Berosius and Orpheus, it must be taken that he acted as he did under warrant of Natural Law. . . . (2) Moreover, God prescribed for His people general and permanent rules of waging war, and so made manifest that even without His special warrant a just war is possible . . . . And since nothing is there declared as to what are just causes of war it is implied that these are easily discoverable by the light of nature. . . .

III. (1) Our doctrine may also be proved by the consent of all nations, and particularly of judicious men. Cicero, speaking of force in the defence of our lives, adduces Nature herself as a witness. . . . (2) And this has so manifest an equity, that even in beasts whose laws, as I have already said, are no more than shadows, we can distinguish between force which assaults and that which only defends. . . .

IV. (1) Therefore, it is quite clear that by Natural Law, which may also be called the Law of Nations, all warfare is not to be condemned. (2) And history and the laws and customs of all peoples teach us quite plainly that war is not condemned by the voluntary Law of Nations. On the contrary, according to Hermogenianus, war was introduced by the Law of Nations. This statement, however, should, in my opinion, be understood in a slightly different sense to that in which it is popularly received. Rather, a certain mode of warfare was introduced by the Law of Nations, so that wars that conform to that mode have, by the rules of war, certain well-defined incidents. Whence arises a distinction, of which we shall presently make use, between "solemn" wars, also called just or full or complete wars, and "non-solemn" wars which yet, on that account, do not cease to be just, that is, to



conform to law and justice. For, as will hereafter appear, the Law of Nations neither allows nor condemns "non-solemn" or informal wars, provided the cause be just. By the Law of Nations, says Livy, it is allowed to repel arms by arms. And Florentinus declares it to be in accordance with the Law of Nations to repel violence and wrong in defence of our lives.

V. (1) Concerning Instituted Divine Law the difficulty is greater. But let none here object that Natural Law is immutable, and that consequently nothing contrary to it can be prescribed by God. This is indeed true of what Natural Law actually forbids or prescribes, but not of what that law only permits, for things of the latter kind, not properly being subject to Natural Law but extraneous to it, may be either forbidden or prescribed. (2) The first objection usually brought against war by some is that of the law which was given to Noah and his posterity . . . . but the forbidding of the shedding of blood is of no wider extent than the law "Thou shalt not kill," which, it is obvious, prohibits neither capital punishment nor lawful war . . . . (6) And we have, for this view, the great authority of Abraham, who, not being ignorant of the law given to Noah, took up arms against the four kings, believing, in fact, that his action was not repugnant to that law. So Moses commanded his people to fight against the Amalekites, who had attacked them, and in doing this he followed, apparently, Natural Law, for he does not seem to have particularly consulted God about this matter. Moreover, capital punishment was not inflicted upon murderers only, but also on other heinous offenders, and that by God's chosen people as well as by other nations.

VI. (1) The arguments against war which are taken out of the Gospel are more plausible. But in examining these I shall not assume, as many do, that there is nothing in the Gospel, besides points of faith and the sacraments, which is not enjoined by Natural Law. That, in the commonly received sense, is not, I think, true. (2) I willingly grant that nothing is commanded us in the Gospel that is not naturally reasonable; but I see no ground to hold that we are bound to nothing more by the laws of Christ than by those of Nature. . . . (3) Nor shall I follow those who presume to say that Christ, when delivering the precepts in Matthew v. *et seq.*, was only interpreting the Mosaic Law . . . .

VII. (1) Omitting, then, the arguments of less weight, we have, as first and chief testimony that the right of waging war is not absolutely taken away by the law of Christ, those words of Paul in Timothy ii., 1, 2, 3 [as developed in] Romans xiii., 4 . . . . (3) Where we also find a second argument. . . . (5) The third argument is taken from the words of John the Baptist, when asked by the Jewish soldiers (of whom many thousands were in the Roman army, as appears from Josephus and other writers)—What shall we do to flee from the wrath of God? He did not bid them to leave the army, which he ought to have done if such had been God's will, but answered only that they should abstain from extortion and fraud and be content with their wages. But to these words of the Baptist, which clearly approve of a military life, many answer that his exhortations and Christ's precepts differ so widely that he seemed to preach one doctrine, and Christ another. This, however, I cannot admit, for both John and our Saviour sum up their doctrine in the same terms, namely, Repent, for the Kingdom of Heaven is at hand. . . . (6) The fourth argument is one which appears to me to have no small weight. If the right of inflicting capital punishment and of defending citizens from thieves and robbers with the sword be taken away there would immediately follow the greatest license of crime and a deluge, as it were, of evils, since even now crime is scarcely repressed by the judicial power. So, if it had been in the mind of Christ to introduce such a state of things as was never heard of, He would certainly have declared it in the clearest and most certain words. . . . (7) My fifth point is that it cannot be shewn by any argument that the judicial law of Moses was abolished before Jerusalem should be destroyed and with it all existence and hope of a Jewish State. For neither is any term fixed by that law itself, nor did Christ or the Apostles say anything as to its abrogation, unless so far as that may seem to be involved, as I have already said, in the destruction of the State. On the contrary . . . Christ Himself, in the preface to His commandments, declares that He has not come to destroy the law but to fulfil it . . . . (9) My sixth argument is from the case of Cornelius the centurion, who received from Christ the Holy Spirit, the undoubted sign of justification, and, moreover, was baptized in the name of Christ by the Apostle Peter. Yet we do not find that he resigned his

commission or was advised by Peter so to do. . . . (10) A seventh and similar argument may be gathered from the conversion of Sergius Paulus (whom I lately mentioned); for in its story there is no suggestion of his quitting the magistracy or of any admonition that he should do so. (11) The eighth argument is from the Apostle Paul, who, hearing that the Jews lay in wait for him, desired that the fact should be made known to the tribune. And when the tribune furnished him with soldiers, whose convoy would ensure his safety from any attack, he made no objection whatever. Nor did he tell the tribune or the soldiers that it was displeasing to God to repel force by force. And yet this is that same Paul who never neglected an opportunity to teach men their duty, and whose one wish was that no one else should be guilty of that neglect. (12) Ninthly. That which is a natural end of a good and right act cannot itself be other than good and right. It is right that we pay taxes; this, as Paul expresses it, being a precept binding upon the conscience. Yet one object of the taxes is that our governors may have the means to protect the good and coerce the evil. . . . (13) A tenth argument is found in Acts xxv., 11, where Paul says, "If I be an offender, or have committed any thing worthy of death, I refuse not to die. . . ."

Having proved that capital punishment may be rightly inflicted after the coming of Christ, I consider that it is also proved that certain warfare may be rightly carried on, that is, waged against a company of armed evildoers who must be overcome in battle before they will admit their guilt. For though the power and resistance of the evildoers are matter for consideration in prudent deliberation, yet they have no relation to the question of who or what is right. (14) The eleventh argument is that in the Revelations some wars of the righteous are predicted with manifest approbation. (15) That the law of Christ abolishes the law of Moses only so far as it separates the Hebrews from the other peoples, is my twelfth argument. Such things as are accounted right by nature, and by the general consent of civilised peoples, it was so far from taking away, that it comprehends them under the general precept of all honesty and virtue. Now the punishment of crimes, and the repelling of injuries by arms, are regarded as naturally laudable, and are classed under the virtues of justice and beneficence. . . .

VIII. Let us now also see what arguments are brought in support of the opposite opinion, so that the pious reader may more easily decide which are the more weighty. (1) First usually brought up is the prophecy of Isaiah, that the nations would beat their swords into ploughshares and their spears into pruning-hooks, and would no more take up the sword one against the other and no longer learn war. But this prophecy must be understood either conditionally, as many others are, or unconditionally. If conditionally, then it is subject to the existence of an international society in which all nations have submitted to the law of Christ and actually carry it out. Under such circumstances there would be nothing wanting to fulfilment on the part of God, for it is certain that, if all were Christians and lived as Christians, there would be no wars. . . . If unconditionally, then it is obvious that the prophecy has not yet been fulfilled, that fulfilment and the conversion of the Jews being as yet only a matter of expectation. But take the prophecy which way you will, conditional or unconditional, nothing can be inferred therefrom against the lawfulness of war so long as there are people who will not allow lovers of peace to enjoy peace, but, rather, assail them with violence . . . . (2) Many arguments are usually taken from the fifth chapter of Matthew, and in order to judge their value it is necessary to remember what was said a little before: That if Christ had proposed to abolish all capital punishment and the right of war He would have done so in the most plain and specific terms on account of the great importance and the novelty of the proposal, and the more so because no Jew could believe otherwise than that the laws of Moses concerning judicial affairs of the State were absolutely obligatory upon the Jews so long as that State should exist. Bearing this in mind let us proceed to consider in order the force of each passage. (3) The second argument, then, in favour of our opponents' views is to be sought in these words: "Ye have heard that it hath been said, An eye for an eye, and a tooth for a tooth: But I say unto you, That ye resist not the evil man: but whosoever shall smite thee on thy right cheek, turn to him the other also." Hence some infer that no injury ought to be resisted or satisfaction secured therefor, either publicly or privately. Yet the words themselves do not say this, for Christ is not here speaking to magistrates, but to those who are injured. Nor does



he speak of all injuries, but only of slight ones such as a box on the ear, for the last words restrict the generality of those preceding. (4) So in the following precept: "If any man will sue thee at law, and take away thy coat, let him have thy cloke also." It is not every appeal to a judge or umpire that is here prohibited, according to Paul, who does not forbid all litigation (1 Cor. vi., 4), but only that of Christians before heathen tribunals. And herein he holds up to the Christians the example of the Jews, among whom the saying was current, that "He who brings the cause of an Israelite before strangers, profanes the name of God . . . ." (5) So in what follows: "If any man shall compel thee to go with him one mile, go with him twain." Our Lord did not say a hundred miles, which distance might take a man too far away from his business, but one, and, if need be, two, which is no more than a trifling walk. The meaning then is this, that in matters of small moment we are not to insist too much upon our rights, but rather yield more than is demanded, so that our patience and kindness may become known to all. (6) And then follows: "Give to him that asketh thee, and from him that would borrow of thee turn not thou away." If you understand this without any sort of limitation, nothing could be harder. He who takes not care of his own family is worse than an infidel, says Paul (1 Tim. v., 8). Let us then follow Paul, the best interpreter of his Master's law (2 Cor. iii., 13). . . . (8) In such circumstances [tolerable injuries], Christ enjoins patience. . . . (9) The third argument is usually taken from the following passage from St. Matthew: "Ye have heard that it hath been said, Thou shalt love thy neighbour, and hate thine enemy; but I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them that despitefully use you, and persecute you." For there are those who consider that both capital punishment and war are repugnant to such love and good feeling for one's enemies, but this is easily answered if we have regard to the actual words of the Hebrew law. The Hebrews were commanded to love their neighbour, that is, a Hebrew. . . . But none the less, the magistrates were commanded to put murderers and other heinous offenders to death; the eleven tribes justly made war upon the tribe of Benjamin for a horrid crime (Judg. xx.), and David, who fought the battles of the Lord,



rightly recovered by arms from Ishbosheth the kingdom promised to him. (12) The fourth objection is taken from Rom. xii., 17: "Recompense no man evil for evil, &c." But here also the same answer as before is obvious, for at the very time that God said, "Vengeance is mine, I will repay," capital punishment was inflicted and the laws of war were already written. . . . (13) . . . Paul says that the public authorities are the ministers of God, and avengers to execute wrath, that is, punishment, against evildoers; and so he most plainly distinguishes between punishment for the sake of the public good, inflicted by the minister of God and referable to the vengeance reserved by God, and that private and particular revenge which he had prohibited just before. For if you include in this prohibition that punishment for the sake of the public good, what could be more absurd than, when he had bid them abstain from capital punishment, he should immediately add that public authorities were ordained by God to this end, to inflict punishment in His stead? . . . (17) But what was said to Peter, that "He that smiteth with the sword shall perish by the sword," since it does not refer to war in the ordinary sense of the word, but properly to private battle—for Christ Himself gives as a reason for prohibiting or neglecting His own defence that His kingdom was not of this world—will be more properly discussed in its own place.

IX. (1) Whenever there is any doubt as to the sense of any writing, it is usual to attach great weight both to subsequent usage and to the authority of the learned, and especially should this be so in the case of the Holy Scriptures, for it is not probable that the Churches which were founded by the Apostles should either suddenly, or universally, have fallen away from what the Apostles had briefly prescribed in writing, or, more fully, verbally explained to them, or even reduced into practice. Still, as those who argue against war are accustomed to allege some sayings of the early Christians, I will make three remarks as to this. (2) My first point is that nothing can be adduced from these sayings which is any more than the private opinion of individuals as distinguished from the official view of the Churches. Moreover, those whose sayings are quoted are mostly men who loved to follow a path of their own and teach something striking. Of such are Origen and Tertullian—writers who are not even consistent with them-

selves. . . . (3) My second observation is that Christians often disparaged or avoided the military life because of the conditions of the age, which scarcely permitted the military life without the practice of some acts repugnant to the Christian law. . . . (4) My third remark is that the primitive Christians were consumed with so ardent a desire for perfection, that often what was only Divine counsel would be taken for Divine command. . . . Thus Lactantius says that a just man, such as he would have a Christian to be, will not make war; but he also says that he should not go to sea. And how many primitive Christians inveighed against second marriages? . . .

X. (1) But now to establish our case. First, we are not without authors, and the more ancient too, who maintain that Christians may lawfully inflict capital punishment and—which follows—engage in war. Clemens Alexandrinus, for example . . . . (2) But setting aside individuals let us come to what should have greatest weight, the official pronouncements of the Church. I say, then, that never were any soldiers as such refused baptism, or excommunicated, which ought to have been the case, and would have been, if the military life had been inconsistent with the conditions of the new covenant. As to which reference may be made to the Constitutions of Clemens . . . . Tertullian, too, told the emperor Marcus Aurelius that rain had been sent in answer to the prayers of the Christian soldiers. And in the *De Corona* he says that the soldier who had thrown away the garland was braver than his comrades, and reminds the emperor that he had many Christian soldiers. (3) Add to this that some soldiers who suffered torments and death for Christ's sake received from the Church the same honour as other martyrs, amongst them being noted three companions of St. Paul. (4) That the Christians of those days did not care to be present at capital punishments is not to be wondered at, since they were themselves so often the victims of such punishments. . . . (5) [And among the bishops, St. Ambrose says] . . . "To go to war is no fault, but to do it purely for plunder is a sin . . . ." (11) But in support of our view we have the express judgment of the Church in the first Council of Arles, held under Constantine; for its Third Canon declares that those who throw away their arms in time of peace are to be excluded from communion, that is, those who desert

from the army at a time when there is no persecution. For the Christians so meant the word "peace" to be understood, as appears from Cyprian and others. And let us add the example of the soldiers under Julian, Christians of no little piety, who were ready by their death to give testimony to Christ, and of whom St. Ambrose speaks . . . . And so, long before, the Theban legion under Diocletian, who were converted to Christianity. . . . (12) Let it suffice here to quote their words—addressed to the emperor—which, with impressive brevity, express the duty of the Christian soldier: "We offer our hands against any enemy whatsoever, though we hold it a crime to stain them with the blood of the innocent. Our right hands know how to fight against the wicked and the enemy, but not how to butcher the good man and our fellow citizen. We remember that we first took up arms for our fellow citizens, rather than against them. We have always fought for justice, the good, and the safety of the innocent, and these have hitherto been the rewards of our courage. We have fought for our faith, and how shall we keep our allegiance to you if we do not keep it to our God? . . . "

## BOOK II.

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### CHAPTER I.—OF THE CAUSES OF WAR; AND FIRST, OF SELF-DEFENCE AND THE DEFENCE OF OUR PROPERTY.

I. (1) Let us come to the causes of wars. And by causes I mean “just” causes; for there are other causes which are merely considerations of utility, and are therefore quite distinct from those in which the sense of right, or the “just,” operates. . . . (3) Just cause is no less requisite in public wars than in private. Hence Seneca asks how the homicide of individuals is a crime while the slaughter of peoples is a glory. For, though public wars, being undertaken by public authority, have certain juridical results, as have judicial sentences—of which hereafter—yet they are not thereby the less criminal if begun without just reason. . . . And the query of St. Augustine is much to the point: “Without justice what are empires but so many great robberies? . . . (4) A just cause of war can be nothing else than an injury received. . . .

II. (1) Now, clearly, there are as many causes of war as there are of actions at law. . . . (2) Most writers assign three just causes of war—defence, recovery of property, and punishment. . . . (3) . . . The first cause, therefore, of a just war is an injury which, though not yet done, threatens either our person or property.

III. We have already said that if a man is menaced by a present force so that his life is in inevitable danger, then he may not only attack but even destroy his aggressor; and from this premise, which all must allow, we have proved that private war may, in some cases, be lawful. And it must be noted that this right of self-defence is inherent and fundamental and depends

not at all upon the injustice or wrong-doing of the aggressor. So, I do not lose my right of self-defence even if he has no intention to do wrong, as when, for instance, he is performing his duty as a soldier, or mistakes me for someone else, or acts as one insane or in a dream—all of which we have read of. It is sufficient that I am not bound to suffer the wrong he threatens any more than any injury with which I might be threatened by a wild beast.

IV. (1) It is a disputed question, however, whether we may kill or trample down innocent persons who, interposing, hinder a defence or escape by which alone we can avoid death. There are some, even divines, who think it lawful. . . .

V. (1) It is necessary that the danger should be present, and, as it were, immediate. But I have no doubt that if a man is actually taking up weapons, obviously with the intent to kill another, the latter may anticipate and prevent his intention; and this is so because in the moral code, as in the laws of nature, there is no rule which does not admit of some latitude in application. Yet they are greatly in error, and deceive others, who presume that a bare apprehension of danger would justify a precautionary homicide. . . . (2) . . . If a danger can be otherwise avoided, or if it is not quite certain that it cannot be otherwise avoided, delay gives opportunity for many remedies and many chances, or, as the ancient saw has it, many things may intervene between the mouth and the morsel. Nor are there wanting divines and jurists who extend this indulgence even farther.

XI. We now come to those injuries that affect our property. And here, if we have regard to corrective justice, I shall not deny that it is lawful to slay a robber if it be necessary for the preservation of our goods. . . .

XIII. (1) . . . [But according to the Gospel] if our property can be preserved without running the risk of slaying a man, that is all right. But if not, then the property is better lost, unless it is something upon which our life and that of our family depend and which cannot be recovered at law. . . .

XIV. . . . The law, though, neither gives nor ought to give to any man the right privately to kill anyone, not even those who deserve death, except for the most atrocious crimes, for otherwise there would be no need for courts of justice. Therefore, when the law allows a thief to be killed with impunity it must be under-



stood only as dispensing from punishment and not as conferring a right.

XVI. What we have so far said of the right of defending one's person and one's property belongs properly to private war, but, subject to difference of circumstances, it is also applicable to public war. In private war the right of defence is, as it were, a momentary and temporary one, disappearing as soon as the tribunal is available for the settlement of the matter in dispute. But in public war, since it arises only because there is no such tribunal or that tribunal has ceased to function, that right has permanency and continually develops with the occurrence of new wrongs and injuries. Moreover, in private war the right is limited to mere defence, while public authorities exact satisfaction as well. Hence, a danger which is not present but threatens from afar may be warded off by such authorities, though not directly (for, as we have above shown, that would be unjust), but indirectly, that is to say, by exacting satisfaction for a wrong already begun but not completed—with which we shall deal elsewhere.

XVII. But I can hardly approve the doctrine of some writers, that by the Law of Nations we may rightly take up arms to enfeeble a rising power which, if too much augmented, may become dangerous to us. Undoubtedly, in arriving at a decision about a proposed war, these things may be taken into calculation, though not as a matter of justice but as a matter of interest, so that, if the war be just on other grounds it may, on this account, be prudent to declare it. And not any of the authorities cited say anything else. But it is a doctrine contrary to every principle of equity that justice allows us to resort to force in order to injure another merely because there is a possibility that he may injure us. Indeed, human life is such that we can never enjoy a condition of complete security. Against uncertain fears protection must be sought in divine providence and innocent precaution, and not in the exercise of our strength.

XVIII. (1) No less unsatisfactory is that doctrine, based upon the assumption that only a few are content to proportion their vengeance to the injury received, that a defence by those who have brought upon themselves a just war is right. For that fear of an uncertainty cannot give a right to take up arms. And so an

accused person has no right, because he fears he may not be fairly punished, forcibly to resist arrest by the ministers of justice. (2) But he who has wronged another ought first to offer to the latter a satisfaction at the arbitration of a good man, and then, if that offer be refused, his defence will be just.

## CHAPTER XXII.—OF UNJUST CAUSES OF WAR.

I. (1) When we were speaking of the causes of war we divided them into two classes—namely, justificatory, or justifying causes, and suatory causes, or motives. . . .

II. But there are some who engage in war for neither of these causes, being, as Tacitus says, greedy of danger for its own sake. And so inhuman is such action that Aristotle calls it brutishness. . . .

III. (1) Still, most of those who wage war, while they all have suatory causes, or motives, yet only in some cases have justificatory causes, having none in other cases. And to those who thus fight frankly without justification we may follow the Roman juriconsults and apply the term robbers—men whose right to possess a thing being challenged can assert no other than that of mere possession. . . . (2) Of this stamp was Brennus, who said that everything belonged to him who was the stronger. . . .

IV. Some there are who engage in war for only apparently justifying causes, which, when brought to the bar of right reason, are found to be unjust; and, as Livy says, there does not then appear to be any struggle for the right, but rather a ruthless aggression of the mighty. Most kings, says Plutarch, use these two names of war and peace only as pieces of money, to obtain, not justice, but what they want. But though unjust causes may be recognised fairly well by reference to the just causes already mentioned, inasmuch as the straight line is the indicator of the crooked, still we shall specially note the principal instances of the unjust in order to make matters as plain as possible.

V. (1) Mere dread of a neighbouring Power is not, as we have already said, a sufficient cause. For a defensive war to be just, it ought to be necessary, which is not the case unless it is clear that our neighbour has not only the power, but the intention, to injure us, and unless the evidence of that intention is practically conclusive. (2) So we cannot very well assent to the opinion

of those who consider that a just cause of war arises where a neighbouring Power, not being precluded by treaty from so doing, erects in its own territory a castle or some other fortified place which may at some time or other prove dangerous to us. For such possible dangers should be met by erecting like places within our own territories, and taking like precautions, rather than having recourse to war. . . .

VI. Nor do the advantages which may accrue to us from war create a right comparable to that which is derived from necessity.

VIII. Nor is there any more justice in the desire to migrate from one place to another in order to occupy a more fruitful land in the stead of swamp and desert, as, according to Tacitus, was the cause of most of the wars among the ancient Germans.

IX. And equally unjust is it, under pretext of discovery, to raid occupied territory, even though the occupants are godless and almost brainless savages.

X. (1) Ownership, including that of such occupants, involves neither moral virtue, religious faith, nor perfect intellect, though it seems that this may be fairly argued—that if there should be any people entirely destitute of reason their ownership is limited to such things as, by charity, are necessary for the preservation of their life. What we have already said as to the rules of the Natural Law of Nations for the preservation of the property of infants and persons of unsound mind is to be applied to those peoples with whom agreements can be made; and if—which is very doubtful—there be any peoples entirely without reason, they are not of that class. (2) . . . But it is another question how far ownership may be lost because of grave offences and opposition to nature or human society, and with this we deal when we come to consider the right to punish.

XI. Another unjust cause of war is the desire for liberty, whether that of individuals or that—autonomy or self-government—of States, as if it were a natural and constant right of every man or State. For when liberty is claimed as the natural heritage of men and peoples it must be understood only as a natural right as it existed before any human action in derogation of it, and as an exemption from slavery, but not an absolute incompatibility with slavery. So, though a man is not a slave by nature, yet

there is no natural right which prevents him ever being a slave. For in the latter sense no one is free. "No one is born either freeman or slave," says Albutius, "but fortune gives these names to them afterwards." . . .

XII. Nor is it less unjust to seek to subjugate, by force of arms, those we deem fit only to be slaves, who, as the philosophers sometimes say, are slaves by nature, for we have no right to force a man even to what is to his advantage. For those who have the enjoyment of their reason ought, unless another has a right over them, to have a free choice of what may seem to their advantage or otherwise. . . .

XVI. It must also be understood that if a man owes anything to another, not in strictness of law, but by some other virtue, as, for instance, generosity, gratitude, pity, or charity, then as that cannot be exacted in a court of justice so it cannot be requisitioned by force of arms. For either of these remedies presumes something more than a moral obligation, and that the obligee has a strictly legal right such as is sometimes involved by both Divine and human laws in obligations created by virtues other than that of justice; and when this occurs there is introduced into the obligation a new element which brings the obligation into relation with the idea of justice, and where that element is absent a war to enforce the so-called obligation is waged for an unjust cause. . . .

XVII. (1) We must observe, too, that it often happens that there may actually be a just cause for a war, and yet the giving effect to it may become wrong from the intention of the agent, as when some motive, not unlawful in itself, more powerfully incites him than the right he purports to assert. Such a motive might be, for instance, the vindication of outraged honour, or the acquisition of some advantage, private or public, which is expected to accrue from the war, the motive being considered independently of the justifying cause of the war; or the motive may be clearly unlawful, as where pleasure is to be found in another's misfortune without regard to any good. . .



## CHAPTER XXIII.—OF DOUBTFUL CAUSES OF WAR.

I. Very true is it, as Aristotle wrote, that there is not the same degree of certainty in moral science as there is in mathematics. . . . So, between that which ought to be done and that which is prohibited there is a permissible mean, which, however, tending, as it does, now towards the one extreme and now towards the other, is often of doubtful character, like twilight or lukewarm water. . . .

II. (2) It often happens, too, that our judgment does not reach decision, but hesitates, doubtful. Then if that hesitation cannot be determined by careful consideration, we must follow the rule of Cicero—"Do nothing the justice of which we question," is its substance. Or, as the Hebrew Rabbis say, "Abstain from what is doubtful." But this rule cannot be followed when we are bound to do one of two things, as to each of which we are equally in doubt. We are then entitled to choose that which we consider to be the less unjust; for always, where choice cannot be avoided, the lesser evil takes the character of the good. . . .

IV. (1) But to judge rightly, some skill and experience is necessary; and those who are without such ought to take the advice of wise men in order rightly to form their active judgment. . . .

VI. War is a matter of gravest importance, because so many calamities usually follow in its train, even upon the head of the innocent. So, where counsels conflict we ought to incline towards peace. . . . And there are three ways by which disputes can be settled without recourse to war.

VII. (1) The first is by a Conference. "There being two kinds of disputation," says Cicero, "the one by reasoning and the other by force, and the former being the peculiar method of mankind and the latter of brutes, the way of the brute is to be followed only when that of humanity is impossible." . . .

VIII. (1) The second is by Arbitration. "It is wicked," says Thucydides, "to fall upon him as an enemy who is willing to

refer his case to an arbitrator." . . . (3) But much more are Christian kings and States obliged to adopt this method of avoiding war. For if arbitrators were appointed both by Jews and Christians in order to avoid litigation before pagan judges, this practice, indeed, being expressly commanded by St. Paul, how much more should this be done in order to avoid the much greater inconvenience of war? . . . (4) And for this and other reasons it would be convenient, and, indeed, it is almost necessary, for congresses of Christian Powers to be held, where international disputes could be settled by the disinterested Powers. Means might be devised, indeed, to compel conflicting States to accept a peace on reasonable terms. . . .

IX. The third is by lot. . . .

X. (1) Something like this is single combat. And it does not seem that the practice of this ought to be repudiated altogether if thereby two persons, whose quarrels would otherwise involve two nations in the gravest misfortunes, are ready to come to a mutual settlement by fighting one another. . . . For it seems that such fighting, though not justifiable as between the parties themselves, may yet certainly be acquiesced in by the two nations concerned as being the lesser evil. . . .

XI. But though in a doubtful case each party is bound to endeavour to discover conditions by which war may be avoided, yet he who makes a demand is more so bound than he who is in actual possession. The maxim holds good in Natural Law, as well as in the Civil Law, that "in all cases of equal claim he who is in possession has presumably the better right." . . .

XII. Where, however, the right is doubtful, and neither is in possession, or each is equally so, he shall be regarded as in the wrong who refuses, when it is offered to him, a half of the matter in question.

XIII. (1) From what we have said it is now possible to settle that much controverted question whether a war, having regard to the justification therefor of its principal authors, can be just and lawful on both sides. . . . (2) In the particular acceptation of justice, as relating to a particular act, a war can no more have justice on both sides than can a matter in litigation, for there cannot, by the nature of the act, be contradictory moral claims in respect to it, as, for instance, that a certain act should

be done and also that it should not be done. Yet, nevertheless, it can clearly happen that neither belligerent act unjustly, for no one acts unjustly unless he knows that what he does is unjust; but many do not know that when it is so. Both parties to a dispute are able, accordingly, to litigate justly, that is to say, in good faith. For much, both of the law and of the facts determining the justice of a case, usually escapes the notice of the litigants. . . . (4) But as in war it rarely happens that there is not some rashness at the least or some lack of charity, the matter being so grave we should not be content with mere probabilities, but only with the most certain causes. (5) But if we understand the word "just" as involving certain juridical incidents, it is certain that in this sense a war may be just on both sides; as will appear from what we shall have to say about solemn public war. It is in this sense that an illegal sentence or wrongful possession has such incidents.

## CHAPTER XXIV.—A WARNING NOT TO ENGAGE IN WARFARE RASHLY, EVEN FOR JUST CAUSE.

I. (1) Though it might appear to be foreign to our subject, which is the Rights or Justice of War, to explain what other virtues than justice direct or advise as to the making of war, yet, incidentally, we must note a certain common error, lest anyone should consider that, where valid cause clearly exists, a war ought to be undertaken either immediately or at any other time that is convenient. It happens, indeed, on the contrary, that more often than not there is a greater humanity and morality in giving up one's rights. . . . This generosity is especially incumbent upon Christians, who are called upon to imitate in this regard the most perfect example of Christ, Who laid down His life for us when we were godless and His enemies. Here is an example which should so increase our generous impulses as to make us hesitate to assert our proprietary and other rights at the fearful cost to others which war involves. . . .

II. (3) . . . If Christ desired that we should undervalue certain interests rather than go to law, then without doubt He would have us indifferent to those greater interests that may lead to war, which is so much more pernicious than mere litigation. (4) "For a good man to relax something of his rights," says St. Ambrose, "is not only an act of generosity, but is often even one of convenience." [And so Aristides and Xenophon.]

III. (1) And as for punishment, it is our first duty, if not as men, then most certainly as Christians, readily and freely to condone the wrongs we suffer, as God in Christ condones our offences. . . . [So Seneca, Aristotle, and Cicero.] . . .

IV. (1) Often also it is to the interest of ourselves and our people to decline a war. . . . In one of His parables Christ says that if a king is about to make war against another he first sits down (the custom of those in anxious deliberation) and considers whether he is able with ten thousand men to meet an enemy

having twenty thousand, and finding that he has insufficient strength sends an ambassador to treat for peace before the enemy enters his territory. . . . (3) And it is possible to temporise, as, according to Strabo, in the case of Syrmus, King of the Triballi. Alexander the Great wishing to enter the Isle of Peuce, Syrmus forbade him, but at the same time sent gifts to him in order to show that his prohibition was prompted by a just fear and not by hatred and contempt.

V. (1) Those who deliberate in such cases consider partly the ends—not the ultimate, but the subordinate ends—and partly the means to those ends. And the end is always some good, or, at least, the avoidance of some evil, which is much the same thing. The means are not sought for themselves, but according as they lead to an end. And so in our deliberations we must not only compare the ends with one another but the means with their effectiveness to accomplish the required ends. . . . Three rules are to be observed in making these comparisons. (2) This is the first rule. If the matter in question appears, morally speaking, to be equally effective for good and for evil, it is to be undertaken only if the good result has in it more of good than the evil result has of evil. . . . (3) The second rule is, that if it appears that good and evil may equally result from the matter in question, it must be chosen only if its tendency is more to good than to evil. And thirdly. If the good and evil appear to be unequal, the effectiveness for either being no less unequal, we may still venture upon the matter if its effectiveness for good as compared with its effectiveness for evil is greater than the evil as compared with the good, or if the good as compared with the evil is greater than the effectiveness for evil compared with the effectiveness for good. (4) All this, perhaps, is a little too subtle. But Cicero expresses the same idea a little more plainly when he says that “we are to avoid rushing into danger without cause, than which there is nothing more foolish.” . . .

VI. (2) But right reason suggests something quite different—that life is of more value than liberty, for it is the foundation of all temporal good and the occasion of all eternal happiness, and this whether you consider it either in relation to an individual or to a whole people. And so God Himself regards it as a benefit that He does not destroy men, but delivers them into



slavery. . . . (3) The destruction of a people, in such circumstances, ought to be regarded as the greatest of evils. . . . (5) And what I have said of liberty I would have understood of other desirable things—they should be sacrificed if there otherwise would be a more, or even equally, justifiable fear of a greater mischief. For, as Aristides well says, to save a ship it is the custom to throw overboard the cargo, and not the passengers.

VII. It must also be especially observed that no war should be undertaken, with a view to inflicting punishment, against a nation of equal strength. For as a civil magistrate ought to be more powerful than the criminal, so ought he who seeks to punish misdeeds by war be more powerful than the one he attacks. Not only does prudence, or consideration for his own people, usually require that a Sovereign should refrain from hazardous warfare, but frequently even justice—that is to say, political justice—which, from the very nature of his sovereignty, demands no less of him a consideration for his subjects than of them their obedience to him. Wherefore it results, as theologians have rightly concluded, that a king who wages a war for slight cause, or to inflict needless punishment, thereby involving his subjects in a very hazardous adventure, is bound to recompense them for the injuries they suffer thereby. For though he has not injured his enemy yet he has done his subjects a grave wrong by plunging them in so much misfortune upon such an account. . . . As Ovid says, “Let the soldier bear only those arms with which he can put down arms.”

VIII. Rare, then, is that cause of war which cannot, or ought not to be disregarded—that “cause which,” as Florus says, “is more savage and unendurable than war itself.” And Seneca says that “we may run into danger when we have as much,” or more, “to fear if we sit still.” . . .

IX. Another time for going to war is when, upon just estimation, we have right on our side, and also what is of greatest consequence—the power to maintain that right. . . .

X. (1) “War is a savage business,” says Plutarch, “and brings in its train an infinity of injuries and violence.” And St. Augustine very wisely says: “. . . To fight is the happiness of the wicked, but the necessity of the good. . . .” And Maximus Tyrius: “War is quite certainly not undertaken by

the just unless it is necessary, though the unjust plunge into it for mere choice." . . . (3) If, according to the Jewish law, he who had slain a man, even though by accident, was forced to fly; if God forbid David to build His temple, because he had shed much blood, even though his wars are said to have been just; if among the ancient Greeks they who had stained their hands with human blood, though without fault, had need of expiation—who, especially a Christian, can fail to see how unhappy and very evil a thing is war, and how strenuously we ought to avoid it, even though not unjust? And it is certain that among the Greek Christians a canon was long observed, by which those who had slain an enemy in any war whatever were for a time excommunicated.

## CHAPTER XXV.—OF THE CAUSES FOR WHICH WAR MAY BE UNDERTAKEN ON BEHALF OF OTHERS.

I. (1) Above, when we dealt with those who have the right to make war, we stated and proved that, by Natural Law, every man has authority not only to maintain his own rights but also those of others. And so, whatever causes justify a man making war on his own account, also justify him who fights in aid of another. (2) But our first and chief care should be those who are under our protection and power, whether in a family or State, for, as we showed, such are a part, as it were, of our political personality. So the Hebrews took up arms, under Joshua, on behalf of the Gibeonites, who had become their political dependents. . . .

II. Yet not always is the political superior bound to make war on behalf of his dependent, even though the cause be just. He is bound only if he can so act without inconvenience to all, or the greater part, of his subjects; for it is the business of a ruler to consider the interests of the whole of his people rather than those of a part. And the greater the part, the nearer it approaches the nature of the whole.

IV. Next to subjects, or, indeed, equally with them, we ought to defend our allies when there is an engagement for defence in the treaty of alliance; and this, whether they have placed themselves entirely under our protection or the treaty is one of mutual help. . . .

V. A third reason for war is the protection of our friends, that is to say, of those to whom, though no express promise of help has been given, assistance is due, as it were, because of friendship, if it can be given without too great effort and inconvenience. . . .

VI. The last and widest reason is the solidarity of mankind, and this alone is sufficient. "Men are born for mutual help," observes Seneca. . . . And, according to St. Ambrose, "that courage which defends the weak is the most perfect Justice."

VII. (1) Here the question arises whether a man or a nation is under obligation to defend from injury any other man or nation respectively. Plato even thinks that he should be punished who does not repel a violence offered to another; and such was the law of the Egyptians. But in the first place, where there is manifest danger there is no such obligation, for everyone is entitled to prefer his own life and property to those of others. . . .

(2) And the opinion of Seneca should not be ignored: "I will help any man who is perishing, if I can do it without perishing myself; unless my ruin is to be the ransom of some great man or great cause." But even then he is not bound to help if the person threatened cannot be delivered without the death of the assailant. For if, as we have said, the victim may value the life of the assailant more than his own, the third party will not be to blame if he believes, or chooses to believe, that the person threatened prefers to perish, especially as the assailant runs a greater risk of irreparable and eternal damnation.

VIII. (1) There is also the question whether the delivery of a people from its ruler's oppression is a just cause for war. True it is that from the first institution of civil societies the rulers of each have claimed some special right over their own subjects. . . .

(2) But the question is not very doubtful if oppression is manifest; for if a Busiris, a Phalaris, or a Diomedes of Thrace should oppress his subjects to an extent that no just man could approve, there would still exist that primal right born of human solidarity. So Constantine took up arms against Maxentius and Licinius; and other Roman emperors took, or threatened to take, up arms against the Persians, unless they ceased to persecute the Christians on account of their religion alone. (3) Yes, though it be granted that subjects cannot lawfully take up arms against their rulers even in circumstances of extreme necessity (as to which, as we have seen, even those self-appointed champions of regal power are doubtful), yet it does not therefore follow that others cannot take up arms on their behalf. For whenever the obstacle to an action is in the actor, and not in the act itself, then what is not permitted to one may be lawful for another on his behalf, if only it is something in which one man may help another. So a guardian may litigate for a minor, who cannot himself do so; and for an absent party one may plead even without

specific authority. But the prohibition against resistance by a subject does not arise because of the cause of his disaffection, which is the same in relation both to himself and a non-subject, but from his quality of subject, which does not pass to others.

IX. (3) War is not one of the social arts. Rather, it is something so horrible that only sheer necessity or perfect charity can make it lawful. . . .



## CHAPTER XXVI.—OF THE JUST CAUSES FOR WHICH THOSE UNDER THE AUTHORITY OF ANOTHER MAY ENGAGE IN WAR.

I. So far we have dealt with those who are their own masters. But there are others who are in circumstances of obedience or subjection, such as sons of families, servants, subjects, and even individual citizens, as compared with the whole body of the State.

II. These, if they are consulted on the matter, or if they are given a free choice of war or peace, ought to follow the same rules as do those who, by their own authority, engage in war for themselves or others.

III. (1) But if they are commanded to fight, which is usually the case, they ought to abstain altogether if they are clear that the war is for an unjust cause. We are told, not only by the Apostles, but even by Socrates, that we should rather obey God than man. . . . (4) Josephus relates from Hecataeus that the Jews who bore arms under Alexander the Great could not be compelled, either by whips or by any degradations, to co-operate with the rest of his soldiers in banking up earth for the restoration of the Temple of Belus at Babylon. But we have an instance nearer to our argument in the Theban Legion, of which we have already spoken. . . . (5) The rule is the same if anyone is but merely persuaded that what he is ordered to do is unjust; for to him the thing is unlawful so long as he cannot get rid of that opinion, as appears from what has been said above.

IV. (1) But if the subject is doubtful whether or not the cause is lawful, must he remain quiet or fight? The general opinion is that he should fight. Nor should that celebrated maxim, "Act not at all in a doubtful case," prevent him, for he who hesitates in mere speculation may have no hesitation in practice. He may, indeed, believe that in doubtful matters he should obey his superiors. Nor can it be disputed that this distinction of the judgment into speculative and practical undoubtedly obtains in

many cases. The Civil Law, not only of Rome but of other nations, not only concedes that he who is obedient in such circumstances is not to be punished but it even refuses a civil action against him. According to that law, he commits the wrong who orders it to be done; he is guilty of no fault who is bound to obey; the necessity imposed by a superior excuses; and the like. (2) . . . "A servant," says Seneca, "is not the critic, but the minister, of his master's commands." (3) And St. Augustine, in his opinion on this matter of military service, is very precise in the same sense. . . . And hence it is the universal opinion that, as regards subjects, a war may be just on both sides, that is to say, free from injustice. . . . (4) Yet this matter is not without its own difficulty. Adrian, the last Cisalpine Pope, maintained the contrary, which, though it cannot be precisely supported on his reasoning, may be more convincingly put on this—that he who doubts in speculation ought, in practice, to choose the safer side. And the safer side is to abstain from war. . . . (7) As a fact, as we shall presently show, declarations of war are usually made publicly, stating the cause of the war, so that all mankind, as it were, may be able to judge as to its justice. Prudence, according to Aristotle, is a virtue peculiar to a prince, but justice belongs to every man as such. But it would seem that the above opinion of Adrian ought to be absolutely relied on only if the subject not merely doubts as to the justice of the cause, but, induced by more probable arguments, is more inclined to believe that the war is unjust, especially if it is a question of an offensive war as distinguished from a war of defence.

V. (1) If, however, it is impossible, by exposition of the cause of a war, to satisfy the consciences of all his subjects, it is the clear duty of a good prince rather to subject them to special taxation than to military service—especially when there are others ready to serve. And these latter may be made use of by a just prince, whether their intentions are good or evil—as even God sometimes makes use of the acts of the Devil and of the wicked—on the same principle that absolves from fault the poverty-driven wretch who takes the money of a voracious usurer. (2) Yes, though the justice of the war cannot be in doubt, yet, nevertheless, it does not seem at all right that Christians should be forced, against their will, into military service. And this is so because

abstention from military service, even when such service is permissible, is conduct of that greater holiness which for a long time has been required of the clergy and penitents and is strongly approved in many ways, for other Christians. . . .

VI. (1) Still, I am of opinion that it may happen that in a war not only doubtful, but even manifestly unjust, subjects may lawfully take up arms in their own defence. For since the enemy, though carrying on a war which is just on his side, has not an absolute and inherent right to slay innocent subjects who have no concern with the cause of war on their side, unless it be either necessary for his defence or incidentally to the attainment of his end (for these subjects are not liable to punishment), it follows that, if it is certain that the enemy is falling upon them with intent not to give quarter, such subjects are allowed by Natural Law to defend themselves, and of this right they are not deprived by the Law of Nations.

## BOOK III.

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### CHAPTER I.—GENERAL RULES FROM NATURAL LAW AS TO WHAT IS LAWFUL IN WAR; AND HEREIN OF DECEIT AND FALSEHOOD.

I. We have seen who may wage war and what causes justify war. We must now enquire into what is lawful in war, and to what extent and in what circumstances it is so; either simply itself or in relation to some antecedent promise; and simply, first from Natural Law, and then from the Law of Nations. Let us now see what Natural Law permits.

II. (1) First, as we have repeatedly said, all means to an end of a moral nature derive from that end itself an intrinsic worth; and so we may conclude that we have a right to use such means as are necessary, morally as distinguished from physically, for the assertion of our rights. And by “rights” I here mean what are strictly so called—the power of acting conformably to social interest alone. Wherefore, as we have elsewhere noted, if I am unable otherwise to preserve my life, I may, by any force whatever, repel him who threatens it; because this right does not properly arise from the wrongdoing of my assailant, but from Nature herself, who has invested me with the right to preserve myself. (2) And this same right also allows me to seize the property of another, if it threatens me with imminent danger, without considering whether its owner is in fault or not. Yet I do not thereby acquire ownership, for such is not a means necessary for the end in view, but only, as we have explained elsewhere, a right to hold it until my security is sufficiently provided for. So I have a natural right to retake possession of any property of mine that another wrongfully detains, or, if that is not easily done, to take something else of equal value; and I may do the like for the recovery of a debt; in which cases owner-

ship itself follows, because by no other means could equality be restored. (3) So, when punishment is just, all force is just that is necessary to inflict the punishment, including everything that is part of the punishment, such as the destruction of property by fire or otherwise, provided it be within just limits and proportionate to the offence committed.

III. Secondly, it must be understood that our rights are not to be estimated by reference only to the first causes of the war, but also to new causes which come into existence during the course of the war; just as in litigation it often happens that a party acquires new rights after process has issued. Thus, those who join forces with the enemy, whether allies or subjects, give me the right of defending myself against them also. So those who take part in an unjust war, especially if they might or ought to know that it is unjust, become bound thereby to make good the expense and damage of it, because such are the consequences of their own wrongdoing. So, too, those who come into a war begun without a good reason thereby render themselves liable to a punishment proportionate to the injustice involved in their action. . . .

IV. (1) It should be observed, thirdly, that the right to do a thing imports a permission consequentially to do many things indirectly and without deliberate intent, even to do things which *per se* could not be lawfully done. How this holds good in the case of self-defence we have elsewhere shown. So, in order to recover our own, if we cannot take precisely our due we have a right to take more, subject, however, to an obligation to restore the value of the excess. And thus you may bombard a ship filled with pirates or a house full of thieves, although there may be in the ship or house a few infants or women or other innocent persons who may thus be exposed to danger. . . . (2) But, as we have frequently pointed out before, that which is conformable to strict right is not always absolutely lawful, for sometimes charity to our neighbour does not permit us to enforce that right. Therefore any acts incidental to those we have planned, and which can be foreseen, ought to be avoided, unless—according as only prudence can determine—the good which may result therefrom be far greater than the evil to be feared, or unless, the good and evil being equal, there is far greater expectation of good than



fear of evil. Moreover, in a doubtful case, we must always, for safety's sake, regard the interests of others rather than our own.

V. (1) Here another question usually arises: What may we lawfully do against those who, not being our enemies, or not wishing to be regarded as such, yet provide our enemies with various supplies? And this question has been quite bitterly debated, not only in the past, but quite recently, some contending for the rigour of war and others for the freedom of commerce. (2) But first we must distinguish between the things themselves. There are some things which are useful only in war, such as arms; some which are of no use at all in war, such as those which serve only for pleasure; and some which are of use both for war and in peace, such as money, provisions, and ships and marine stores. Concerning the first kind, that is true which Amalasuintha said to Justinian—that they who supply the enemy with necessities of war are part of his side. As to the second kind, no question can arise. . . . (3) As to the third class, being articles of doubtful use, the actual state of the war must be considered. For if I am unable to defend myself unless I intercept those things when in transit, necessity, as we have elsewhere explained, will justify their seizure, subject, of course, to an obligation to restore them if there is no cause to the contrary. Because if their delivery to the enemy will hinder the enforcement of my rights, and the sender can know that—as if I were besieging a town or blockading a port, and surrender or peace was expected—he is liable to me for damages, just as anyone would be who should release my debtor from prison or help him to escape in order to cheat me. And I may seize his goods proportionately to the damage I have suffered, and assume their ownership in order to satisfy my claim. If, however, he has not yet done the damage, but is only about to do it, I have the right to hold the goods in order to compel him to give security for the future—by hostages, by pledge, or in other ways. If, moreover, the injustice of my enemy's cause is obvious and clear, and the sender thus encourages him in a most unjust war, he is then liable, not only civilly but even criminally, for the damage he does me, as one who rescues a notorious offender from the hands of justice; and on that ground measures appropriate to his offence may be taken against him, in accordance with the rules we have already set down for punishments, and

so, subject to those principles, we may even pillage him. (4) And on this account it is usual directly a war is commenced for the belligerents to publish, for the information of other nations, a statement both disclosing the justice of their cause and also what probable hope they have of enforcing their rights. . . .

VI. (1) As to the mode of waging war, force and terror are the most appropriate means. But may stratagem also be employed? This is a quite common question. Homer answers in the affirmative: "The enemy is to be injured, no matter whether by fraud or force, openly or concealed." . . . And so [others and] (2) Ammianus: "Without any distinction between courage and craft, all successful efforts in war ought to be glorified." (3) The Roman jurists called a fraud "good" if used against an enemy, and also said that it mattered not if a man baffled his enemy by force or by fraud. So Eustathius: "Deceit is not to be blamed, as belonging to a soldier." And among the theologians there is St. Augustine, who says that "if the war be just it concerns not justice whether one fights openly or by stratagem," and St. Chrysostom remarks that emperors who secure victory by fraud are most to be commended. (4) Yet we are not without opinions which seem to maintain the contrary, of which I shall mention some presently. The real point, however, is this: Is fraud, merely as such, always an evil? If so, then we must not do evil in order that good may come. If not so, then the question is whether the act in contemplation, not being inherently and universally evil, may not, as it may sometimes happen, be good in the particular circumstances.

## CHAPTER XV.—MODERATION IN CONQUEST.

I. What equity requires, or humanity commends, to be shown towards individuals, is so much the more to be shown towards nations or parts of nations, inasmuch as wrongs or kindness done to many is the more remarkable. As other things may be acquired in a just war, so may sovereignty over a nation and even the very sovereignty enjoyed by a nation itself, though only so far as can be justified as a punishment for wrongdoing or a satisfaction of some obligation. To which may be added—or in order to avoid some grave public danger. But though this justification is generally involved with others, yet it should be chiefly considered for its own sake both in concluding peace and in pressing a victory. For while other things may be remitted out of pity, in a grave public danger any pity which disregards the demands of safety is nothing else than cruelty. Isocrates tells Philip that “the barbarians should be subdued so far as to place his own country in safety.”

II. (1) And Sallust said of the ancient Romans: “Our ancestors, most religious of men, took nothing from the vanquished except liberty to do wrong”—words worthy of a Christian, and which agree with another of his sayings—that “wise men make war for the sake of peace, and labour in the hope of rest.” . . . (2) And none of this is inconsistent with the teaching of Christian theologians, that the object of war is to remove obstacles to peace. And before the time of Ninus, as we have already quoted from Trogus, it was the custom to maintain the boundaries of empire rather than to extend them: everyone’s rule ended with his own country; and kings did not seek power for themselves, but glory for their peoples, and, satisfied with victory, abstained from empire. To this state St. Augustine brings us back, as much as he can, when he says: “Let them consider that it is not for good men to rejoice in the extent of their dominion,” and adds: “It is a greater happiness to have a good neighbour at peace than to subdue a bad one by war.” And the prophet

Amos severely rebukes the Ammonites for their anxiety to extend their territories by force of arms.

III. The prudent moderation of the old Romans comes very near to this example of primitive innocence. "What to-day would our empire have been," asks Seneca, "if a wholesome prudence had not mingled the conquerors with the conquered?" "And," says Claudius in Tacitus, "our founder Romulus was so wise that most of his enemies became citizens within a day." . . . Lastly, what is very wonderful, all people under the sway of Rome were made citizens of Rome by a decree of the Emperor Antonine. For this we have the authority of Ulpian. So, as Modestinus observes, Rome was called *Communis Patria*—the common country. And, to quote Claudian, "We owe this happy union of so many diverse peoples to Rome's persistent policy of peace."

IV. (1) Another kind of moderation in victory is to leave their own government to the conquered, whether sovereigns or peoples. . . . (2) So the Romans permitted the Cappadocians to have what form of government they would. And many nations were left free after war . . . [it being] the custom of Rome to spare the vanquished, for "the greatest souls are the most generous in victory." In Tacitus we read that "nothing was taken from Zorsines when he was conquered." . . .

V. Still, regard must be had for the security of the conqueror when power is being conceded to the conquered. . . .

VI. So it may often happen that tribute is imposed in order to provide not so much for reparation as for the future security of both conqueror and conquered. . . .

VII. (1) But that their own government should be left to the conquered is not only a measure of humanity but often also one of policy. . . .

IX. If, however, it be not safe to leave the conquered their liberty, yet some moderation may be possible, as, for instance, their kings or a part of their own government may be left to them. . . .

X. And even when they are entirely deprived of their own government they may be allowed to retain their ordinary laws, with regard to public and private matters, and also their own customs and magistrates. . . .

XI. (1) Another privilege which may be granted to the conquered is the enjoyment of their national religion, unless they can be persuaded to change it. . . . (2) But if their religion is a false one, then the conqueror will take care that the true religion shall not be oppressed. . . .

XII. (1) My last advice is this—that however complete and absolute be the power which the conquerors have obtained, the conquered should be treated with clemency, in order that the interests of each may become the interest of both. . . . (2) The Privernian ambassador, being asked in the Roman Senate what peace the Romans might expect from his people, replied: “If you grant us a good peace, it will be sure and permanent; if bad, it will not last long.” And he gives the reason: “You cannot believe that any nation, or even any individual, can remain any longer than is necessary in a condition that does not satisfy him.” So, according to Camillus, that government is most secure where the subjects are glad to obey. And the Scythians told Alexander: “There is no friendship between lord and slave, for though they live in peace the laws of war remain.” And Hermocratus, in Diodorus, declares that it is not so glorious a thing to conquer as to use victory with clemency. The saying of Tacitus is very applicable in regard to the use of victory: “Excellent are the conclusions of those wars where pardons are the characteristic of the final terms.” And, lastly, there is the letter of the dictator Cæsar: “Let this be a new way of conquering: to protect ourselves by mercy and generosity.”



## CHAPTER XXV.—THE CONCLUSION, WITH ADMONITIONS TO GOOD FAITH AND PEACE.

I. (1) And here, I think, I may make an end. Not that I have said all that might have been said, but that what has been said may be enough to lay the foundations; so that if anyone will build thereon a fairer fabric, far from envying, I shall be heartily grateful to him. Yet before I dismiss the reader I will add a few admonitions which may tend, both during and after war, to the preservation of good faith and peace, as, when I was speaking of the launching of war, I added some arguments with a view to any possible prevention of war. And I am anxious for good faith especially, lest all hope of peace be taken away, as well as for other reasons. For, according to Cicero, not only is each State held together by good faith, but even that greater society of nations. And Aristotle truly says that if this be taken away all human intercourse ceases. (2) . . . And this should be the more carefully kept by Sovereigns, as they enjoy greater impunity than others in its violation. For once good faith disappears they will become like wild beasts, whose violence all men dread. Then, too, while the other attributes of justice are somewhat obscure, that of good faith is so obvious as even to be used in all the dealings of men in order to remove obscurity. (3) How much more ought Sovereigns to observe good faith—first, for the sake of their conscience; and secondly, for the sake of their reputation, upon which stands the authority of kingdoms. Let them not doubt, then, that politicians who instil into them the principles of deceit do themselves practise what they teach. And principles cannot prosper long which render men not only unfit for human association, but even hateful to God.

II. Further, no mind can remain serene and faithful to God throughout the whole conduct of a war unless it ever looks forward to peace. For it has been very truly said by Sallust

that "wise men wage war for the sake of peace," an opinion in harmony with that of St. Augustine: "We do not seek peace in order to wage war, but we wage war in order to secure peace"; and Aristotle often condemns those nations that make war their main and ultimate object as it were. There is a certain brutal violence which is most prominent in war; and therefore it ought to be most carefully contrived that war is tempered by humanity, lest we forget our manhood in an overmuch imitation of beasts.

III. If, then, a sufficiently safe peace can be secured by the condonation of evildoers, damages, and expenses, it is not a bad settlement, especially between Christians, to whom our Lord gave His peace as a last legacy. So St. Paul, best of His expositors, would have us live peaceably with all men, so far as in us lies. And, as we read in Sallust, "a good man enters into a war with regret, and does not willingly prosecute it to extremes."

IV. All this ought to be enough. But even human interests often draw men in the same direction—first, those who are the weakest. For a long struggle with a more powerful opponent is full of danger; and anger and hope (deceitful advisers!) should be disregarded, just as, at sea, a greater misfortune is averted by throwing something overboard. . . .

V. And then there are those who are the more powerful. As Livy most truly says, peace is glorious and beneficial when granted by those whose circumstances are prosperous, and is more advantageous and more permanent than a merely anticipatory victory. . . . And the courage of despair, like the sharp teeth of dying beasts, is especially to be feared.

VI. But what if both parties seem to be of equal strength? Then, according to Cæsar, the best time to conclude peace is whilst each party trusts in his own strength.

VII. But peace having once been made, no matter upon what conditions, ought to be most strictly kept, because of the sanctity of that which we have called good faith; and not only should perfidy be most carefully avoided, but anything which may exasperate our opponent's mind. For what Cicero has said about private friendships is no less fitly applicable to public—that as all friendships are to be preserved most religiously and faithfully, so especially should those which have resolved a state of war into a happy peace.

VIII. May, then, the Almighty, Who alone can do it, inscribe these lessons in the hearts of those who control the affairs of Christendom; and may He enlighten their minds with a sense of justice, both human and divine; and may He lead them ever to feel that they are His chosen ministers for the government of Man—the dearest of His creatures.

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# QUAKERS AND PEACE.

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## INTRODUCTION.

Those who interest themselves in the peace efforts of the Society of Friends must not expect to find many traces of their handiwork in peace treaties, in world alliances, in federations or in leagues. Seldom indeed have Quakers been entrusted with matters of this kind. Such contributions as they have endeavoured to make to the cause of peace are mainly to be found in an altogether different field. They have been directed towards the creation of a peaceable atmosphere and above all things to the cultivation of an attitude of mind which is inconsistent with war. Asked if he would not take up arms for the Commonwealth against the King and pressed by the Commonwealth soldiers to become their Captain, George Fox, the first publisher of Quaker truth, replied that he lived in the virtue of that life and power that took away the occasion of all war. And to attain this attitude of mind has been the aim of Quakers as a body ever since. In obedience to what they have conceived to be the Light that lighteneth every man that cometh into the world, and practising the truths revealed not by the help of man nor by the letter of the Scripture (though they are written in the letter) but by the immediate spirit and power of Christ, Quakers as a religious group have desired chiefly, not to legislate for Utopias or to make detailed plans for the realisation of pacifist dreams, but quite simply to put their personal loyalty to Christ before all other loyalties and, rejecting all compromises and disregarding all dangers, to practise it as a way of life that takes away every occasion of war.

The story of Quakerism begins with George Fox. In the troublous times of the Commonwealth his mind looked for an



inward peace which none of the religious teachers of his generation could show him how to find. At last, in the year 1647, in the words of his *Journal*, "when all my hopes in creeds and teachers and in all men were gone, so that I had nothing outwardly to help me, nor could I tell what to do: then, O! then I heard a voice which said, 'There is one, even Christ Jesus, that can speak to thy condition'; and when I heard it my heart did leap for joy. . . . For though I read the Scriptures that spoke of Christ and of God: yet I knew Him not but by revelation, as He who hath the key did open, and as the Father of Life drew me to his Son by His Spirit."

It is a central truth of Quaker teaching that if men seek first to know the will of God and the companionship of His Spirit, the Light of Christ within will give them an immediate sense of His presence and an unfolding revelation of His will for them. Into the theological and philosophical implications of this doctrine which is as old as the Gospels it would be inappropriate here to enter. They have been dealt with very fully by many writers both within and without the Society, and readers are referred to the Bibliography. It may, however, be permissible, perhaps, briefly to defend the doctrine from the suggestion that it involves the enthronement of private judgment and the complete chaos of belief and practice. Experience has shown that this is not so. There are, of course, varying degrees of revelation corresponding to the varying capacities of men to receive them and the varying eagerness with which they are sought. But the general harmony of these various revelations and above all the uniformity of direction in which the world over they all tend are evidence of the fact that it is one and the same Spirit which inspires them all, and that there is in truth a "seed of God in every man."

It was to the immediate leadings of this Spirit that George Fox and his friends ascribed their attitude to war. The war between King and Parliament which was then raging was one into which many flung themselves with a selfless devotion. The religious spirit which pervaded the Commonwealth army and the ideals for which it was fought on either side made a very powerful appeal. And in the case of George Fox there was the call of the soldiers who clamoured to have him as their captain.

Thus, in his *Journal*, he tells the story of the strange offer of a captaincy to an untrained man and of its refusal: " So Worcester fight came on, and my time being out of being committed six months to the house of correction: and they then filled the house of correction with persons they had taken up to be soldiers; and then they would have had me to be captain of them to go forth to Worcester fight and the soldiers cried they would have none but me. So the keeper of the house of correction was commanded to bring me up before the Commissioners and soldiers in the market-place: and there they proffered me that preferment because of my virtue (as they said) with many other compliments: and asked me if I would not take up arms for the Commonwealth against the King? But I told them I lived in the virtue of that life and power that took away the occasion of all wars: and I knew from whence all wars did rise, from the lust, according to James his doctrine. And still they courted me to accept their offer, and thought I did but compliment with them, but I told them I was come into the covenant of peace, which was before wars and strifes was; and they said they offered it in love and tenderness to me, because of my virtue and such like: and I told them if that were their love and kindness I trampled it under my feet " (a).

This testimony against war is not, as will be seen, based upon any particular text of Scripture or confined to any particular war. It is based upon the rooted conviction of the fundamental contradiction between the spirit of Christ and the spirit of war. This conviction immediately became one of the chief characteristics of the Society of Friends and has remained so ever since. It has never been expressed by the Society as a formal doctrine nor has it ever been imposed on Quakers as a creed. Indeed, it would be out of harmony with the central truth of Quakerism to require of its members subscription to any formulation of doctrine as a creed; and some there have always been in membership with the Society who have never felt the conviction. But in the main Quakers have upheld it steadily. In so doing they have, however, maintained a clear distinction between war and civil process against wrongdoers;

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(a) *Cambridge Journal* of George Fox, I, 11 and 12.

and although with few exceptions they have uncompromisingly opposed all war yet, with equally few exceptions, they have supported the civil authorities in the suppression of crime (b). The distinction is one which in some stages of society is not easily made, but in general it is clear and intelligible. The aim of civil justice is to supersede private judgment and private revenge. But war between nations upholds these things, and as between antagonists fulfils the same function as duelling did of old.

In the early days of Quakerism that duelling on the large scale, which is war, so far as this country was concerned was mostly internal—between Royalists and Roundheads. Friends refused to give armed support to either side and for this cause, amongst others, they generally incurred the enmity of both. Their meetings were frequently broken up by soldiers, and those who attended them suffered imprisonment and loss of goods. It was on an occasion of this sort, when a Friends' Meeting held in Cork was broken up by soldiers, that William Penn, who as a student at Oxford had taken an interest in Quakerism and who was present at the Meeting, was made a prisoner. Powerful friends secured his release, but he returned to England to preach and suffer as a Quaker. He is one of the very few Quakers who have had the opportunity of taking a leading part in the government of any country, and his "holy experiment" in Quaker government in Pennsylvania, has passed into the general history of this country and America (c).

Penn's extensive writings included an "Essay towards the Present and Future Peace of Europe, by the Establishment of an European Dyet, Parliament, or Estate," published in 1693—4 (d). The aim of the Essay was to advocate relief for the miseries into which Europe had been plunged by war by the Establishment of a Dyet or Parliament of nations, and by the promulgation of rules of justice for sovereign princes to observe one to another. The scheme in some respects resembles the *grand dessein* of

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(b) This statement must not be taken to imply that Quakers as a body have accepted the current definitions of crime, and still less that they have approved of the current modes of treatment.

(c) For further references to the "holy experiment, see p. 36.

(d) *Penn's Works* (two vols. 1726); the Essay is also included in a volume of selections from Penn in *Everyman's Library* (Dent & Co.).

Henry IV and Sully, and both foreshadowed the much wider union of peoples now included in the League of Nations.

Under the leadership of Fox, Penn and many others, the Society of Friends increased in this country and abroad. During the reign of Charles II Quakerism became well-established and in some sense recognised as an interpretation of Christian faith. Its early apologists included men like William Penn, already mentioned, Robert Barclay, and John Bellers. Barclay's *Apology*, published in Amsterdam (1676), is a defence of Quakerism based on arguments from Scripture and from the Early Fathers of the Church. The work has been widely recognised as one of great argumentative force and originality, and quotations from it will be found later in the text. No one, however, was more deeply conscious than was Barclay of the essential weakness and limitations of all arguments. "It must be," says he, "rather by a sensible experience than by arguments that men can be convinced."

John Bellers took up the same theme as Penn in his tract "Some Reasons for an European State" (e), and supported his contentions with a wealth of economic detail and investigation quite novel to his age. His interest was not by any means confined to the realm of international peace. He was one of the first to grasp the importance of investigating the implications of peace principles in the social life of States. His scheme for a "College of Industry" (f), which took shape as a school and workshop at Clerkenwell, anticipated by nearly two centuries some of the modern movements for bringing industrial peace by means of co-operative organisation.

Indeed, merely ceasing from outward hostility has never been the accepted doctrine or practice of Quakers, but it has been their avowed and desired aim to make their whole "conversation and conduct consistent and of a piece throughout" (g). In the eighteenth century this aim involved, amongst other things, abstention from privateering and from slavery, both highly lucrative and growing practices. In these and similar matters,

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(e) Printed in London, 1710.

(f) Published 1695.

(g) The quotation is from a pastoral letter widely distributed amongst Quakers in 1760 by the direction of the central executive body of the society (*Morning Meeting Book*, 1760).



just as in the case of war, the conscience of the Society was first awakened and kept alert by the faithful testimony and practice of individual Friends. But once Quakers as a body became convinced that their faith demanded a particular course of conduct they persisted in recommending it, in the face of all opposition and considerable persecution, both within their own borders and to any whom they had the means of reaching outside. This practice frequently resulted in withdrawals from membership on the part of individuals and in active hostility on the part of interested groups. But the Society as a whole benefited from this discipline and emerged from the struggles with a clearer vision and a stouter heart than before.

The world movement for the liberation of slaves may be taken as a good example of a cause which Friends have endeavoured to forward by peaceable means and of their mode of accomplishing the same. The movement began to gather force about the middle of the eighteenth century and found some of its most active supporters both in England and America amongst Friends. John Woolman (1720—1777) of New Jersey, in particular, devoted much of his saintly life to this work. His *Journal*, which records his labours and travels in his own country and in England, has become one of the religious classics of the world. It is a simple, unadorned story of the meek and manly service of one whose sympathies bound him inseparably with all the oppressed. With the clear insight of one whose sole aim was the service of God and his fellow men he saw the deep roots of war, violence, and all oppression in the desire of many to be rich and to live in ease and self-indulgence upon the heavy labour of others. His Essay entitled a "Word of Remembrance and Caution to the Rich," first printed in 1793 and addressed primarily to rich Friends in America, is for that period a phenomenon, setting forth with the utmost clearness that only upon the abiding principles of lovingkindness, justice, and humanity, in the acquisition and stewardship of wealth can a peaceful and stable economic edifice be built (*h*).

This desire to investigate the human causes of evil and in

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(*h*) The *Journal* and the Essay are published in one small volume by Headley Bros.



particular of war was a constant preoccupation of Friends. Towards the close of the eighteenth century, the ever-increasing wealth and prosperity of many Quakers produced an increasing anxiety lest these should be employed in ways inimical to righteousness and peace. And in 1790 the Yearly Meeting (*hh*) of the Society addressed a letter to Friends entreating them, as warlike preparations were being made in the country, "to be watchful lest any be drawn into loans, arming or hiring out of their ships, or otherwise promoting the destruction of the human species." During the twenty-one years of war which were so soon to follow a fair number of wealthy Friends, who had never accepted with all its implications the pacifist position, from time to time severed their connection with the Society. But as a group Quakers retained their peace testimony throughout those difficult years, and were indeed soon recognised by the Government as a body of men whom it was useless to try to compel to take up arms. They were expressly exempted from personal service under the provisions of the Acts known as the Militia Ballot Acts, 1802 and 1809 (*i*), under which a restricted form of conscription in the shape of enrolment by ballot by beat of drum was imposed; and not being at that time actively propagandist they were generally left alone by the military authorities during the remainder of the war (*k*).

The general exemption accorded to Quakers during the Napoleonic wars contrasts rather sharply with the attitude of the Government towards them a century later during the Great War 1914—1919. Nearly all the circumstances of that terrible period were strange and unprecedented. Not within living memory had England been engaged in any campaigns which could be considered vital to her existence. In spite of many ominous threats to peace, Europe in general had almost ceased to believe in the possibility of a general outbreak. The tradition of peace had become so familiar that outside certain military and diplomatic circles there were few indeed who contemplated

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(*hh*) See note (*x*), p. 21, *post*.

(*i*) See the Act of 1802 (43 Geo. 3, c. 90), ss. 27, 45, 50 and 51, and the Act of 1809 (49 Geo. 3, c. 53), s. 13.

(*k*) The exemption was made conditional on paying for a substitute, and many Friends who refused to make such payment suffered distress of goods and imprisonment in consequence.

the possibility of war. There was in this country a rooted and apparently insuperable hostility to conscription in any form. Friends in England of military age were removed by two or three generations at least from any of their predecessors who had had direct and personal experience of actual refusal to bear arms. Under these circumstances it was not to be wondered at that in general they were taken rather by surprise by events as they were unfolded, and that some of them were forced rather hastily to consider their attitude towards war for the first time in their lives.

Their situation was indeed one of very considerable difficulty. In the light of current thought and information the nation was united as perhaps never before on the moral and political issues involved in the struggle, and Friends generally were as deeply interested in these issues as anyone. Merely to stand aside and to leave the arbitrament to others appeared a confession of impotence in the face of aggression and the breach of international obligations. It was with a high moral resolve to uphold the sanctity of treaties, to maintain the standard of national morality, and to put an end to war that recruits in such thousands flocked to the new armies in the early months of the struggle. Friends of military age might well envy these devoted young men their serene and gay confidence in the part they had chosen, and a few from almost every Meeting joined them. But there was a stop in the minds of most. The stop varied in strength according to circumstances, the training and the outlook of the individual, but its cause was the same in all. This cause was not, as already said, any want of sympathy with the professed aims of the war, but a deep and growing certainty that the whole method and morality of war were at variance with the Christian gospel.

But, it may be asked, if the method of war is to be abjured how are innocent to be protected and the guilty to be punished or restrained? The question assumes that wars do in fact accomplish these objects. But even if it is admitted that some wars have (amongst other things) in some degree accomplished some of these objects, it cannot be denied that they have done so at such a cost of suffering and death to entirely innocent persons as most sane people would consider out of all proportion

to the results achieved. And, of course, there is no guarantee of the final triumph of justice in warfare though there is the certainty of great and widespread injustice in its train. The dilemma therefore, if such there be for the Society of Friends, is no greater than that which exists for the soldier. The sword is certain to bring suffering and oppression. It cannot with confidence be trusted to redress any wrong. Further, with the increasing growth and perfection of all the modern weapons of war the appalling suffering caused by war becomes increasingly disproportionate to the comparatively trifling causes and occasions of war. The Christian method, in the view of the Quakers, is the constant daily effort to relieve all suffering and oppression within our reach and a perpetual attack on every cause of war, most especially on those causes within our own hearts.

In addition to the moral repugnance to war felt by Quakers there is the same sane and reasonable objection as that which leads all lawyers to oppose the private vindication of rights and the private avenging of wrongs. In a country where duelling takes the place of law it has been frequently shown to be a sign of sanity, not to say of courage, to go unarmed. A beginning has to be made by someone if private vengeance is ever to cease, and is it not the same in the case of war? The refusal to be both judge and avenger in one's own quarrel is merely a recognition of a larger loyalty and the possibility of a more excellent way. In the realm of nations, the United Kingdom to take only one instance, is a standing example not only of the sound sense but also of the practicability of following this way (l).

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(l) The following report, taken from the *Times* of May 6, 1927, is an indication of what might be happening even to-day in the United Kingdom if there was no recognition of the larger loyalty: "Something of a feud has arisen in the Highlands over an application by the county of Argyll to annex part of Inverness-shire in Lochaber, where there is a prospect of the creation of a thriving village. At a meeting of Inverness County Council to-day Lochiel, chief of the Camerons, said Argyll's attempt to annex a piece of Inverness-shire was the most outrageous instance of territorial aggression on the part of one county to another that had taken place within the last three centuries. Like a corbie crow, Argyll sought to pick the eyes of the neighbouring county. He (Lochiel), at school, never learned that the word 'greed' spelt 'administration,' which was the version Argyll gave for the annexation of the land. One of the last attempts which Argyll made to invade Inverness-

With thoughts and arguments like these uppermost in their minds Friends saw with growing dismay the increasing agony and sufferings of Europe, and in their own way and with their own limited resources they set about to bring such relief as they could. One of the first pieces of war work to which they set their hands was the care of enemy subjects resident in this country. There were, as is well-known, very large numbers who at the outbreak of the war through no fault of their own but by the accident of birth or of marriage were suddenly placed in positions of the greatest difficulty and distress. Indeed in some respects the condition of these "enemies" was worse than that of the unfortunate Belgian refugees who streamed into this country about that time. For whereas the Belgians found friends and helpers everywhere, the Germans and Austrians in this country were everywhere hated and suspect. It has to be remembered, too, that many of them were foreigners only because they had married foreigners. The lot of innocent Englishwomen who were treated as aliens and outcasts in the land of their birth was exceptionally bitter. Many, too, through long residence in this country or for other reasons were entirely English in their sympathies, and in some cases even had sons in our armies. For the assistance of all such enemy subjects in the many calamities in which they were involved a Committee of Friends entitled the Emergency Committee for the Assistance of Germans, Austrians, Hungarians in Distress (or, more briefly, the Friends' Emergency Committee) was formed in 1914. Its aims and work have been fully described in "St. Stephen's House" (m).

In the early months of the war a Committee of Friends, afterwards widely known in Europe as the War Victims Relief

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shire was at the battle of Inverlochy, where the Marquess of Montrose proved too much for the Campbells. Unfortunately, at the present time they could not make Argyll pay by blood, but they could make it so expensive for Argyll that the ratepayers there would feel the financial burden so heavy that it would be many centuries before Argyll would try again to make any aggressive attempt to annex part of the county of Inverness. On the motion of Lochiel, it was agreed to oppose the application strenuously. The Mackintosh of Mackintosh, convener of the council, who was in the chair, said that he never heard a better speech made on the Cameron *versus* Campbell controversy. [Lochaber is the district in the south of Inverness-shire which contains Ben Nevis.] "

(m) Headley Bros.



Committee, was formed with the object of bringing assistance to the many non-combatant sufferers and victims invariably found in the train of battle. The story of this Committee is related in "A Quaker Adventure," by A. Ruth Fry (*n*). In addition to the two committees just described, there was also formed in 1914 a Friends' organisation whose aim was to relieve suffering amongst the soldiers. In August of that year a group of young Quakers formed an ambulance corps and proceeded to train and equip themselves "for rendering voluntary non-military service in the relief of suffering and distress resulting from the war," and commenced operations in France and Belgium almost immediately after the outbreak. The Ambulance Unit was never officially recognised by Friends as a Quaker organisation, but it was in fact formed, supported, and, in the early months at least, manned almost entirely by Quakers, and Sir George Newman, in whose hands its training was placed, was himself a Quaker. Its work is described in "The Friends' Ambulance Unit" (*o*).

The activities hitherto mentioned were all, of course, non-combatant activities. They did not seek either to help or to hinder the prosecution of the war but merely to relieve the appalling and growing miseries of which it was the cause. But in the early months of 1916 Friends of military age were brought face to face with combatant service. The Derby Scheme had been followed by the Registration Act, 1916, and later by the Military Service Acts of the same year. There is little doubt that if Friends had asked for complete exemption for members of their own body, following the precedents of 1802 and 1809, they could have had it. But for many reasons that course did not commend itself either to those Quakers who were of military age or to the general body of the Society. One and all preferred to throw in their lot with all those outside the Society who took substantially the same views about war as Quakers, and to reject all special privileges. In consequence of this decision the Military Service Acts made no distinction between the different classes of Conscientious Objectors as they were called, but accorded to all the same treatment, *viz.*, the submission of their case to the Tribunals established under the Acts.

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(*n*) Nisbet.

(*o*) By M. Tatham and J. E. Miles (Swarthmore Press).



These Tribunals were composed chiefly of elderly men, and included local magistrates, clergymen, tradesmen, a few workmen, and others. Very few of their members had had any legal training. Their task was one of considerable difficulty and delicacy in almost every instance. But in the case of the conscientious objectors it was an impossible one. They had to sit as judges of men's motives and conscience, with such slight guidance as they could get from brief interviews in an atmosphere of fear and excitement. A very small percentage of the Tribunals regarded themselves as administrators of an Act of Parliament and bound to maintain a procedure that was just and judicial. On the contrary, both the procedure and the findings of the majority were characterised by all sorts of irregularities, inconsistencies and injustices. The prevailing sentiment of the day was very hostile to conscientious objectors, and many Tribunals regarded themselves as interpreters of this sentiment. So far as members of the Society of Friends (to whom this narrative is confined) were concerned this attitude on the part of the Tribunals was not a ground either of wonder or of resentment, and some of them truly welcomed the opportunity of speaking and of suffering for a cause they had at heart.

The cause, as it appeared to them, was little less than the whole fabric of Christianity. For when hatred and the desire to kill or incapacitate one's fellow men dominate the whole purpose of life (as they must do if war is to be successfully waged) it is difficult to see what place remains for the practice towards enemies of the Christian virtues. It was alleged, on the other hand, that the war was a defence of the weak, and of women and children in particular. And to this Friends made answer that such defence (if defence it were) was at the expense of the lives and happiness of other women and children and of millions of inoffensive men and boys and, in any case, that it did not appear to be Christ's way.

The Tribunals were puzzled to know how Quakers would restrain the criminal aggressor. No Quaker would deny the difficulties involved in this question. Nor do Quakers as a body take up the attitude of Tolstoy and other opponents of all the uses of force. In a settled community they are prepared to support such justice as is lawfully administered by recognised

authorities. But when planted in uncivilised and unsettled countries where no such authority exists, their attitude has been that they have preferred to suffer and to take wrong rather than support a system by which armed individuals or groups by force maintained such rights and privileges or restrained alleged aggression in such manner as seemed good to themselves. Such a system is now universally recognised as a cruel anarchy and the denial of all justice. But the condition of Europe and of the world as between the component States is a similar anarchy founded on nationalism and finding its expression in alternating periods of war and preparation for war. Armed nations act towards one another as armed individuals do where no law and no society exists (*p*). The Quaker declines to perpetuate such anarchy or to take part in such arbitrament even in a good cause, believing the method to be unchristian, necessarily disastrous, and usually powerless for justice besides.

On the whole the decisions of the Tribunals were more favourable to members of the Society of Friends than to any other class of conscientious objectors to military service. Yet even amongst so small a religious body as the Quakers there were no fewer than 279 young men who ultimately served varying terms of imprisonment in consequence of having been refused the form of exemption requisite to meet their conscientious convictions. Applicants for exemption who were rejected by the Tribunals or given a form of exemption which they could not accept were handed over to the military authorities. The story of the attempt of these authorities to break down the resistance of the C. O.'s, as they came to be called, is given in J. W. Graham's "Conscription and Conscience" (*q*). Briefly, they were confined in irons in dark cells on a bread and water diet. Numbers were sent to the fighting area in France and subjected to Field Punishment No. 1 (now abolished). They were, in many cases, treated with lawless violence and brutality. No fewer than thirty-four (including four Quakers) were sentenced to death, though the sentence was in each case commuted into

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(*p*) The Geneva Conventions and International Law as administered at the International Court at The Hague are attempts to restrain the existing anarchy which would otherwise, both in peace and war, be complete.

(*q*) Allen & Unwin. Mr. Graham's narrative is not confined to Friends.

one of ten years' penal servitude. But through all, their resistance remained unbroken.

Under Army Order N. of May 25, 1916, men who asserted a conscientious objection to military service were passed from the court-martials to civil prisons. In July of the same year the Home Office scheme of work of national importance was brought into operation, and the majority of the C. O.'s then in civil prisons accepted work under this scheme. But whether in military prisons, in civil prisons, or in the Home Office camps, they were almost invariably treated with great harshness and severity, and it has been computed that in consequence of the rigours of their treatment no fewer than seventy-one of them (including a few Quakers) died.

In conclusion, it should be stated that the peace testimony of Friends is not merely an adjunct to their religious belief and practice but an integral part of them. It is not based merely on the recorded teaching of the New Testament although in full harmony with this teaching. It has grown inevitably out of the conception of the Inward Light—the Divine Spirit in the souls of men—that lighteth every man that cometh into the world. That Spirit, the Spirit of Christ, which leads into all truth cannot, it is believed, if faithfully followed, lead men into hatred, revenge, deceit, cruelty, bloodshed, devastation, and all the host of evils bound up in war (*r*).

Trust in this Inward Light has been the abiding faith of Quakers through their story—a story, which, in the words of one of them (*s*), “now covers two hundred and seventy-five years, and has its failures and its trivialities, its blunders and its humorous aspects. Those who have shared in the experiment have no illusions about the difficulties or the blemishes. They are extremely humble over the rôle they have played and the things they have accomplished. Their one concern has been and is to keep the faith and to follow the gleam.

“Tis not the grapes of Canaan that repay  
But the high faith that faints not by the way.”

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(*r*) See the Historical Introduction to the Reports of the Commissioners issued by the Commissioners of the Peace Conference of all Friends (1920), the language of which is closely followed.

(*s*) Rufus Jones in the Introduction to “Quakers in Peace and War,” by M. E. Hirst. (1920.)

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## QUAKERS AND PEACE.

**Gff to Olefer Croumull (1654) (t).**

I (who am of the world called George ffox) doe deny the carrying or drawing of any carnall sword against any, or against thee Oliver Crumwell or any men in presence of the lord God I declare it (God is my wittnesse, by whom I am moved to give this forth for trutthes sake, from him whom the world calls George ffox, who is the son of God) who is sent to stand A wittnesse against all violence and against all the workes of darknesse, and to turn people from the darknesse to the light, and to bring them from the occasion of the warre, and from the occasion of the Magistrates sword, which is A terrorism to the evill doers which actes contrary to the light of the lord Jesus Christ, which is A praise to them that doe well, which is A protection to them that doe well, and not the evill and such soldiers that are putt in that place no false accusers must bee, no violence must doe, but bee content with their wages, and that Magistrate beares not the sword in vaine, from under the occasion of that sword I doe seeke to bring people, my weapons are not carnall but spirituall, And my Kingdome is not of this world, therefore with the carnall weapon I doe not fight, but am from those things dead, from him who is not of the world, called of the world by the name George ffox, and this I am ready to seale with my blood, and this I am moved to give forth for the trutthes sake, who A wittnesse stand against all unrighteousnesse and all ungodlynesse, who A sufferer is for the righteous seed sake, waiteing for the redemption of it, who A crowne that is mortall seekes not for, that fadeth away, but in the light dwells, which comprehends that Crowne, which light is the condemnation of all such; in which Light I wittnesse the Crowne

that is Immortall that fades not away, from him who to all your soulls is A friend, for establishing of righteousnesse and cleansing the Land of evil doers, and A wittnesse against all wicked inventions of men and murderous plotts, which Answered shall be with the Light in all your Consciences, which makes no Covenant with death, to which light in you all I speake, and am clear.

ff. G.

Who is of the world called George ffox who A new name hath which the world knowes not.

Wee are wittneses of this Testimony whose names in the flesh is called

THO. ALDAM.

ROBERT CREVEN.

### Selection from an Epistle of G. Fox to "all Friends Everywhere " (u).

All Friends everywhere, who are dead to all carnal weapons and have beaten them to pieces, stand in that which takes away the occasion of wars, in the Power, which saves men's lives, and destroys none, nor would have others. . . . Friends, live in the Seed of God, that destroys the Devil, who is the author and cause of Wars and Strifes. . . . All that pretend to fight for Christ are deceived; for his kingdom is not of this world, therefore his servants do not fight. Fighters are not of Christ's Kingdom, but are without Christ's Kingdom. . . . All such as pretend Christ Jesus, and confess him, and yet run with the use of carnal weapons, wrestling with flesh and blood, throw away the spiritual weapons. . . . Live in love and peace with all men, keep out of all the bustlings of the world; meddle not with the powers of the Earth; but mind the Kingdom, the way of peace.

**Selection from a Declaration from the Harmless and Innocent People of God called Quakers against all Plotters and Fighters in the World (1660) (v).**

Our Principle is, and our Practices have always been, to seek peace, and ensue it, and to follow after righteousness, and the knowledge of God, seeking the Good and Well-fare, and doing that which tends to the peace of All. Wee know that Warres and Fightings proceed from the Lusts of men, as *James* iv, 1, 2, 3, out of which Lusts the Lord hath redeemed us; And so out of the Occasion of War; the Occasion of which War, and the War itself (wherein envious men, who are lovers of themselves more than lovers of God, lust, kill, and desire to have mens lives or estates) ariseth from the lust. All bloody Principles and Practices we (as to our own particular) do utterly deny, with all outward Wars, and Strife, and Fightings with outward Weapons, for any end, or under any pretence whatsoever, and this is our Testimony to the whole World.

Given forth in our names, and in the behalf of the whole body of the Elect People of God, who are called Quakers.

(Signed by George Fox and 11 others.)

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**Selection from the Epistle from the Yearly Meeting, 1693 (x).**

DEAR AND TRULY BELOVED FRIENDS AND BRETHREN.—A complaint being made about some shipmasters (who profess the truth, and are esteemed Quakers) carrying guns in their ships, supposing thereby to defend and secure themselves and their ships, contrary to their former principle and practice, and to the endangering of their own and others' lives thereby; also giving occasion of more severe hardships and sufferings to be

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(v) This Declaration was delivered to the King on November 21, 1660.

(x) Yearly meeting is the central authority of the Society of Friends. It acts and speaks for all Friends in England. Quarterly and monthly meetings have similar functions for groups of Friends included in certain geographical divisions and sub-divisions respectively.



inflicted on such Friends as are pressed into ships of war, who for conscience sake, cannot fight, nor destroy men's lives, it is therefore recommended to the monthly and quarterly meetings whereunto such shipmasters belong, to deal with them in God's wisdom and tender love, to stir them up, and awaken their consciences, that they may seriously consider how they injure their own souls in so doing, and what occasion they give to make the truth and Friends to suffer by their declension, and acting contrary thereunto, through disobedience and unbelief; placing their security in that which is altogether insecure and dangerous; which we are really sorry for, and sincerely desire their recovery and safety from destruction, that their faith and confidence may be in the arm and power of God.

Dear Friends, you very well know our Christian principle and profession in this matter, both with respect to God and Cæsar, that, because we are subjects of Christ's Kingdom, which is not of this world, we cannot fight (John xviii, 36); yet, being subjects of Cæsar's Kingdom, we pay our taxes, tribute, etc., according to the example of Christ and his holy apostles, relating to Christ's kingdom and Cæsar's; wherein we are careful not to offend [Matt. xvii, 27; xxii, 20; Rom. xiii, 6, 7].

Signed in behalf of our said meeting, by  
BENJAMIN BEALING.

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### Selection from the Works of Isaac Pennington (*y*).

*Question (z).*—If all men were of this mind, and none would fight, suppose a nation should be invaded, would not the land of necessity be ruined?

*Answer.*—Whenever such a thing shall be brought forth in the world, it must have a beginning before it can grow and be perfected. And where should it begin but in some particulars (*a*) in a nation, and so spread by degrees until it hath overspread

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(*y*) Isaac Pennington (1616-1679) was the son of a puritan Lord Mayor of London.

(*z*) Pennington *Works* (2nd ed.) (1761), Vol. I, p. 447.

(*a*) *I.e.*, individuals.

the nation, and then from nation to nation, until the whole earth be leavened? Therefore, whoever desires to see this lovely state brought forth in the general, if he would further his own desire, must cherish it in the particular. And Oh! that men would not spend their strength, and hazard the loss of all in cherishing pretences and names of Christianity, but would pray to the Lord at length to open that eye in them which can see the loveliness of the truth, power, and virtue of Christianity; that they might cherish that tenderness of conscience wherein the truth grows and springs up in its virtue and power.

I speak not this against any magistrates or people's defending themselves against foreign invasion, or making use of the sword to suppress the violent and evil-doers within their borders (for this the *present estate* of things may and doth require, and a great blessing will attend the sword where it is borne uprightly to that end, and its use will be honourable; and while there is need of a sword, the Lord will not suffer that Government, or those Governors, to want fitting instruments under them for the managing thereof . . .); but yet there is a *better state*, which the Lord hath already brought some into, and which nations are to expect and travel towards (*b*).

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**Selection from an Epistle of Love and Friendly Advice to the Ambassadors of the several Princes of Europe**, met at Nimeguen, to consult the Peace of Christendom, so far as they are concerned: Wherein the true Cause of the present War is discovered and the right Remedy and Means for a firm and settled Peace is proposed (*c*). By R. BARCLAY, a Lover and a Travailer for the Peace of Christendom.

Let it not seem strange unto you, who are men chosen and authorized by the great Monarchs, and States of Europe, to find

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(*b*) The argument, condensed, is this: Firstly, that nations will not travel towards this better state unless individuals first venture on the road; and secondly, that it is inconceivable, with the growing uniformity and interdependence of civilisations, that changes in one nation should not produce corresponding changes in its neighbours.

(*c*) The epistle was dated, from Ury, in Scotland, November 2, 1677. It

out a speedy remedy for the present great trouble, under which many of her Inhabitants do groan; (as such whose wisdom, and prudence, and abilities has so recommended them to the World, as to be judged fit for so great and difficult a work) to be addressed unto by one, who by the World may be esteemed weak and foolish; whose advice is not ushered unto you, by the Commission of any of the Princes of this World, nor seconded by the recommendation of any earthly state: For since your work is that which concerns all Christians, why may not every Christian who feels himself stir'd up of the Lord thereunto, contribute therein; and if they have place to be heard in this affair, who come in the name of Kings and Princes, let it not seem heavy unto you, to hear him that comes in the name of the Lord Jesus Christ, who in the truest sense, is the head and Governour and Chief Bishop of the Church, the most truly Christian and Catholick King: Many of whose Subjects are concerned in this matter, and the blood of many in hazard for whom he hath shed his precious blood, and yet who shall not seek to obtrude upon you the belief of the Truth or certainty of his Commission because of his own Testimony; but leave it, as well as the things he therein delivereth, to the holy and pure witness of God, in all your consciences, to be received or rejected by you, as it shall there be approved, or not approved.

Know then, my Friends, that many and often times my Soul has been deeply bowed down under the weighty sense of the present state of Christendom, and in secret before the Lord I have mourned, and bitterly lamented because thereof; and as I was crossing the Sea, and being the last summer in Holland, and some parts of Germany, the burthen thereof fell often upon me, and it several times came before me to write unto you what I then saw and felt from God of these things, while I was in those parts; and now being returned to my own Country and at my own Home: I cheerfully accept the fit season which the Lord has put in my hand, and called me to therein, to signifie unto you those things which in his name and authority I am commanded to do.

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was delivered to the ambassadors in Latin, but was subsequently published in English, with a postscript giving a list of the assembled delegates (London, 1679).

And for this end, the Lord has shewn me, what the causes are of all this mischief, and confusion, and desolation; which are necessary to be made known unto you, and deeply and seriously to be considered by you, else ye can never be able to apply the right remedies; I speak of the primary and original cause. . . .

The chief ground, cause and root then of all this misery among all these called Christians, is because they are only such in *Name*, and not in *Nature*, having only a form and profession of Chrisianity in shew and words, but are still strangers, yea and enemies to the life and vertue of it; owning God and Christ in words, but denying them in works, and therefore the Lord Jesus Christ will not own them as his Children nor Disciples, for while they say they are his followers, while they preach and exalt his precepts, while they extol his life, patience, and meekness, his self-denying perfect resignation and obedience to the will of his Father; yet they themselves are out of it, and so bring shame and reproach to that honourable name, which they assume to themselves in the face of the Nations, and give occasion for Infidels, Turks, Jews and Atheists, to profane and blaspheme the holy Name of Jesus: Is it not so? . . . They sheath their swords in one anothers bowels, ruin, waste and destroy whole Countreys, expose to the greatest misery many thousand Families, make thousands of Widows, and ten thousands of Orphans, cause the banks to over-flow with the blood of those for whom the Lord Jesus Christ shed his precious blood, spend and destroy many of the good creatures of God: And all this while they pretend to be followers of the Lamblike Jesus, who came not to destroy men's lives, but to save them; the song of whose appearance to the World, was *glory to God in the highest, and goodwill, and peace to all men*. . . . That there is only a name and nothing of the true nature of Christians, especially manifest in the clergy, who pretend not only to be Professors, but Preachers, Promoters and Exhorters of others to Christianity, who for the most part, are the greatest promoters and advancers of these Wars . . . *while they dare pray to God, and thank him for the destruction of their Brethren Christians*, and that for, and against, according to the changeable wills of their several Princes.

The ground then of all this, is the want of true Christianity,



because the nature of it is not begotten nor brought forth in those called Christians, and therefore they bear not the image nor bring not forth the fruits of it; for although they have the name, yet the nature they are strangers to, the Lamb's nature is not in them, but the Doggish nature, the Wolfish nature, that will still be quarelling and destroying; . . .

If then ye come not under a deep and weighty sense of those things, so as to apply yourselves to seek after some effectual way to remedy these evils; however you may seek to please Princes and States by patching up a reconciliation . . . I testify in His Name and Power and Authority, your work will be imperfect, and not prosperous; for although these Kings and Princes that are now at variance, may be by your means brought to lay down arms, and appear to be good friends and dear allies: Yet unless the Lord Jesus Christ can be restored to his Kingdom in their hearts, and that evil ground of ambition, of pride, and lust and vain glory be removed . . . they will kindle the flame again, and all your articles will not bind them, but they will break them like straws.

Therefore be not mistaken, neither deceive yourselves, to think ye can accomplish this work by your worldly and humane wisdom; the wisdom of the flesh will not do it, neither that of the first birth, which must dye, and be crucified, 'ere the Heavenly wisdom, the beginning whereof is the fear of the Lord, be revealed. . . .

Let me exhort you then seriously to examine yourselves by the Light of Jesus Christ in you, that can alone discover unto you your own hearts, and will not flatter you (as men may) whether you be fit for this work you are set about, which you cannot be until you have seriously applied your selves, to the killing and crucifying of that nature in your selves from which all this evil flows, if the warring part be removed out of you, and the corrupted wisdom done away, and the peaceable wisdom brought up, then you are fit to consult and bring about the peace of Christendom; but this cannot be accomplished in you, until you have first believed in the light of Jesus Christ, wherewithall you, as well as all men are enlightened, and which is given you as a sufficient guide and leader, to lead out of darkness, to lead out of strife, to lead out of lusts, from which the Wars come. . . .



And therefore the cause of all the mischief that is in Christendom, is because this Light has not been minded nor regarded in the heart, but has been hated and overlooked, as a low and insufficient thing; . . . and all Christendom has brought forth bitter and sower grapes . . . and not the sweet and peaceable fruits of righteousness, which can never be brought untill all come to him, to the Light of Christ in their Consciences, to follow and obey it, and acknowledge it as that which is given them of God, and sufficient to lead them to Life and Salvation. . . . And therefore there is nothing can so much tend to the good and universal Peace of Christendom, then for all and every one, to mind this gift of God in themselves, and not only to suffer, but to rejoyce at the preaching and promulgating of the universality of this glorious Light.

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#### Selection from the "Apology" of Robert Barclay (d).

The last thing to be considered is *revenge* and *war*, an evil as opposite and contrary to the Spirit and doctrine of Christ as light to darkness. For, as is manifest by what is said, through contempt of Christ's law (e) the whole world is filled with various oaths, cursings, blasphemous profanations, and horrid perjuries; so likewise, through contempt of the same law (f) the world is filled with violence, oppression, murders, ravishing of women and virgins, spoilings, depredations, burnings, devastations, and all manner of lasciviousness and cruelty; so that it is strange that men, made after the image of God, should have so much degenerated, that they rather bear the image and nature of roaring lions, tearing tigers, devouring wolves, and raging bears than of rational creatures endued with reason. And is it not yet much more admirable, that this horrid monster should find place, and be fomented, among those men that profess them-

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(d) An Apology for the True Christian Divinity, being an Explanation and Vindication of the Principles and Doctrines of the People called Quakers, by Robert Barclay (11th ed., London, 1849), pp. 527 *et seq.* The Apology was first published in 1675.

(e) Relating to swearing (Matt. v, 33, 34), and discussed in earlier portions of the Apology.

(f) *I.e.*, Christ's law—concerning human relationships.

selves disciples of our peaceable Lord and master Jesus Christ, who by excellency is called the Prince of Peace, and hath expressly prohibited his children all violence; and on the contrary commanded them, that according to his example, they should follow patience, charity, forbearance, and other virtues worthy of a Christian? . . . (After quoting Mathew v from verse 38 to the end of the chapter.) These words, with respect to revenge, as the former in the case of swearing, do forbid some things, which in times past were lawful to the Jews, considering their condition and dispensation; and command unto such as will be the disciples of Christ, a more perfect, eminent, and full signification of charity, as also patience and suffering, than was required of them in that time, state, and dispensation by the law of Moses. This is not only the judgment of most, if not all, the ancient fathers, so called, of the first three hundred years after Christ, but also of many others. . . . [References are given to the works of Justin Martyr, Tertullian, Origen, Cyprian, Ambrosius, Athanasius, and others.] And truly the words are so clear in themselves, that, in my judgment, they need no illustration to explain their sense; for it is as easy to reconcile the greatest contradictions, as these laws of our Lord Jesus Christ with the wicked practices of wars; for they are plainly inconsistent. Whoever can reconcile this, *Resist not evil*, with *Resist violence by force*: again, *Give also thy other cheek*, with *Strike again*; also *Love thine enemies*, with *spoil them, make a prey of them, pursue them with fire and sword*; or *Pray for those that persecute you, and those that calumniate you*, with *Persecute them by fines, imprisonments, and death itself*; and not only such as do not persecute you, but who heartily seek and desire your eternal and temporal welfare; whoever, I say, can find a means to reconcile these things, may be supposed also to have found a way to reconcile God with the devil, Christ with Antichrist, light with darkness, and good with evil. But if this be impossible, as indeed it is, so will also the other be impossible; and men do but deceive themselves and others while they boldly adventure to establish such absurd and impossible things.

Nevertheless, because some, perhaps through inadvertency, and by the force of custom and tradition, do transgress this

command of Christ, I shall briefly show how much war doth contradict this precept, and how much they are inconsistent with one another; and consequently, that war is no ways lawful to such as will be the disciples of Christ. For,

First, Christ commands, that *we should love our enemies (g)*; but war, on the contrary, teaches us to hate and destroy them.

Secondly, The Apostle saith, That *we war not after the flesh*, and that *we fight not with flesh and blood (h)*; but outward war is according to the flesh, and against flesh and blood; for the shedding of the one, and destroying of the other:

Thirdly, The Apostle saith, *That the weapons of our warfare are not carnal, but spiritual (i)*; but the weapons of outward warfare are carnal, such as cannon, muskets, spears, swords, etc., of which there is no mention in the armour described by Paul. Fourthly, Because James testifies, That *Wars and strifes come from the lusts, which war in the members of carnal men (k)*; but Christians, that is those that are truly saints, *have crucified the flesh with its affections and lusts*; therefore they cannot indulge them by waging war.

Fifthly, Because the prophets Isaiah and Micah have expressly prophesied, *That in the mountain of the house of the Lord, Christ shall judge the nations, and then they shall beat their swords into ploughshares (l)*, etc. And the ancient fathers of the first three hundred years after Christ did affirm these prophecies to be fulfilled in the Christians of their times, who were most averse from war; concerning which, Justin Martyr, Tertullian, and others may be seen; which need not seem strange to any, since Philo Judæus abundantly testifies of the Essenes, That “there was none found among them that would make instruments of war.” But how much more did Jesus come, that he might keep his followers from fighting, and might bring them to patience and charity?

Sixthly, Because the prophet foretold, That *there should none hurt nor kill in all the holy mountain of the Lord (m)*; but outward war is appointed for killing and destroying.

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(g) Matt. v, 43.

(i) 1 Cor. v, 4.

(l) Isa. ii, 4; Mic. iv, 5.

(h) Eph. vi, 12.

(k) James iv, 1.

(m) Isa. lxxv, 24.

Seventhly, Because Christ said, That *his Kingdom is not of this world*, and therefore that *his servants shall not fight* (n); therefore those that fight are not his disciples nor servants.

Eighthly, Because he reproved Peter for the use of the sword, saying, *Put up again thy sword into his place; for all they that take the sword, shall perish with the sword* (o). Concerning which, Tertullian speaks well, lib. de Idol. “How shall he fight in peace without a sword, which the Lord did take away? He disarmed every soldier in disarming of Peter.” . . .

Ninthly, Because the apostle admonisheth Christians, *That they defend not themselves, neither revenge by rendering evil for evil; but give place unto wrath because vengeance is the Lord's. Be not overcome of evil, but overcome evil with good. If thine enemy hunger, feed him; if he thirst, give him drink* (p). But war throughout teacheth and enjoineth the quite contrary.

Tenthly, because *Christ calls his children to bear his cross, not to crucify or kill others* (q); to patience, not to revenge; to truth and simplicity, not to fraudulent stratagems of war, or to play the sycophant, which John himself forbids; to flee the glory of this world, not to acquire it by warlike endeavours; therefore war is altogether contrary unto the law and Spirit of Christ (r).

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**Selections from an Essay towards the Present and Future Peace of Europe, by the Establishment of an European Dyet, Parliament, or Estates.** *Beati Pacifici. Cedant Arma Togæ* (s). By WILLIAM PENN.

SECTION 1.—*Of Peace, and its Advantages.*

He must not be a Man but a Statue of Brass or Stone, whose Bowels do not melt when he beholds the bloody Tragedies of this War, in Hungary, Germany, Flanders, Ireland, and at Sea.

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(n) John xviii, 46.

(o) Matt. xxvi, 52.

(p) Rom. xii, 19.

(q) Mark viii, 54.

(r) The argument is concluded by a series of answers to the objections usually taken to the author's position (see 11th ed., pp. 532 *et seq.*).

(s) The essay was first published in 1693-94. It is included in Penn's Works (two vols., 1726). It is published by J. Bellows, Gloucester (1914), as

SECTION 4.—*Of a General Peace, or the Peace of Europe, and the means of it.*

In my first Section, I showed the Desirableness of Peace; in my next, the Truest means of it; to wit, *Justice not War*. And in my last, that this Justice was the Fruit of Government, as Government itself was the result of Society, which first came from a Reasonable Design in Men of Peace. Now if the Sovereign Princes of Europe, who represent that Society, or Independent State of Men that was previous to the Obligations of Society, would, for the same Reason that engaged Men first into Society, viz.: *Love of Peace and Order*, agree to meet by their Stated Deputies in a *General Dyet, Estates, or Parliament*, and there Established Rules of Justice for Sovereign Princes to observe one to another; and thus to meet Yearly, or once in Two or Three Years at farthest, or as they shall see Cause, and to be stiled, *The Sovereign or Imperial Dyet, Parliament, or State of Europe*; before which Sovereign Assembly should be brought all Differences depending between one Sovereign and another, that can not be made up by private Embassies, before the Sessions begin; and that if any of the Sovereignties that Constitute these Imperial States, shall refuse to submit their Claim or

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a separate tract, and is also included in a volume of selections from Penn's writings in Everyman's Library (Dent & Co., 1916). Some fifteen or sixteen years later, after the war of the Spanish Succession, John Bellers, a London Quaker, published a somewhat similar essay advocating not only the formation of an European State with an annual Congress, Senate or Parliament, but also the creation of a General Council, or Convocation, of all the different religious persuasions in Christendom. See his "Some reasons for an European State, proposed to the Powers of Europe by an Universal Guarantee, and an Annual Congress, Senate, Dyet, or Parliament, to settle any disputes about the bounds and rights of Princes and States hereafter. With an abstract of a Scheme formed by King Henry IV of France, upon the same subject. And also a proposal for a General Council or Convocation of all the different religious persuasions in Christendom (not to dispute what they differ about, but) to settle the General Principles they agree in; by which it will appear that they may be good subjects and neighbours, though of different apprehensions of the way to Heaven. In order to prevent broils and wars at home, when foreign wars are ended" (London, 1710; the Essay is printed in the volume entitled *William Penn et la Paix*, by Dr. Terasaki, of Tokio—Paris, Libraire de la Cour D'Appel et de l'Ordre des Avocats, 1926).

The proposals of Penn and Bellers, although new to their age, were by no means the first of their kind in Europe. At least as early as 1300 similar suggestions had already been made [*Pierre Dubois: Summaria brevis et compendiosa felicitis expeditionis guerrarum ac litium regni Francorum* (1300) and *De Recuperatione terre Sancte* (1306)].



Pretensions to them, or to abide and perform the Judgment thereof, and Seek their Remedy by Arms, or delay their Compliance beyond the time prefixt in their Resolutions, all the other Sovereignties, United in One Strength, shall compel the Submission and Performance of the Sentence, with Damages to the Suffering Party, and Charges to the Sovereignties that obliged their Submission. To be sure, Europe would quietly obtain the so much desired and needed Peace, to Her harassed Inhabitants; no Sovereignty in Europe having the Power and therefore can not show the Will to dispute the Conclusion; and, consequently, *Peace* would be procured, and continued in Europe. . . .

SECTION 7.—*Of the Composition of these Imperial States.*

The Composition and Proportion of this *Sovereign Part*, or *Imperial State*, does, at the first Look, seem to carry with it no Small Difficulty what votes to allow for the Inequality of the Princes and States. But with submission to better Judgments, I can not think it invincible; For if it be possible to have an Estimate of the Yearly Value of the several Sovereign Countries, whose Delegates are to make up this August Assembly, The Determination of the Number of Persons or Votes in the States for every Sovereignty will not be impracticable. Now that England, France, Spain, the Empire, etc., may be pretty Exactly Estimated, in so plain a Case, by considering the Revenue of Lands, the Exports and Entries at the Custom Houses, the Books of Rates, and Survey that are in all Governments, to proportion Taxes for the support of them, that the least Inclination to the Peace of Europe will not stand or halt at this Objection. I will, with Pardon on all Sides give an Instance far from Exact; nor do I pretend to it, or offer it for an Estimate; for I do it at Random: Only this, as wide as it is from the Just Proportion, will give some Aim to my Judicious Reader, what I would be at: Remembering, I design not by any Computation, an Estimate from the Revenue of the Prince, but the Value of the Territory, the whole being concerned as well as the Prince. And a Juster Measure it is to go by, since one Prince may have more Revenue than another, who has much a Richer Country: Tho' in the Instance I am now about to make, the

Caution is not so necessary, because, as I said before, I pretend to no Manner of Exactness, but go wholly by Guess, being but for Example's Sake. I suppose the *Empire of Germany* to send Twelve; *France*, Ten; *Spain*, Ten; *Italy*, which comes to *France*, Eight; *England*, Six; *Portugal*, Three; *Sweedland*, Four; *Denmark*, Three; *Poland*, Four; *Venice*, Three; the *Seven Provinces*, Four; *The Thirteen Cantons*, and little *Neighbouring Sovereignties*, Two; Dukedoms of *Holstein* and *Courland*, One; And if the *Turks* and *Muscovites* are taken in, as seems but fit and just, they will make *Ten apiece more*. The *Whole* makes Ninety. A great Presence when they represent the *Fourth, and now the Best and Wealthiest Part of the Known World; where Religion and Learning, Civility and Arts have their Seat and Empire*. But it is not absolutely necessary there should be always so many Persons, to represent the larger Sovereignties; for the Votes may be given by one Man of any Sovereignty, as well as by Ten or Twelve: Tho' the fuller the Assembly of States is, the more Solemn, Effectual, and Free the Debates will be, and the Resolutions must needs come with greater Authority. The Place of their First Session should be Central, as much as is possible, afterwards as they agree.

#### SECTION 8.—*Of the Regulations of the Imperial States in Session.*

To avoid Quarrel for Precedency, the Room may be Round, and have divers Doors to come in and go out at, to prevent Exceptions. If the whole Number be cast in Tens, each chusing one, they may preside by Turns, to whom all Speeches should be addressed, and who should collect the Sense of the Debates, and state the Question for a Vote, which, in my Opinion, should be by *Ballot* after the Prudent and Commendable Method of the Venetians. . . . It seems to me, that nothing in this Imperial Parliament should pass, but by Three-Quarters of the Whole, at least Seven above the Ballance. I am sure it helps to prevent Treachery, because if Money could ever be a Temptation in such a Court, it would cost a great Deal of Money to weigh down the wrong Scale. All Complaints should be delivered in Writing in the Nature of *Memorials* and *Journals* kept by a proper Person.

. . . I should think it extremely necessary, that every Sovereignty should be present under great Penalties, and that none leave the Session without Leave, till All be finished; and that Neutralities in Debates should by no Means be endured: For any such Latitude will quickly open a Way to unfair Proceedings, and be followed by a Train, both of seen, and unseen Inconveniences. I will say little of the *Language* in which the Session of the Sovereign Estates should be held, but to be sure it must be in *Latin* or *French*; the first would be very well for Civilians, but the last most easie for Men of Quality.

SECTION 10.—*Of the real Benefits that flow from this Proposal about Peace (t).*

I am come to my last Section in which I shall enumerate some of those many *real Benefits* that flow from this Proposal for the Present and Future Peace of Europe.

Let it not, I pray, be the least, that it prevents the Spilling of so much Humane and Christian Blood: For a thing so offensive to God, and terrible and afflicting to Men, as that has ever been, must recommend our Expedient beyond all Objections. For what can a Man give in Exchange for his Life, as well as Soul? And tho' the chiefest in Government are seldom personally exposed, yet it is a Duty incumbent upon them to be tender of the Lives of their People, since without all Doubt, they are accountable to God for the Blood that is spilt in their Service. . . .

There is another manifest Benefit which redounds to Christendom, by this Peaceable Expedient, *the Reputation of Christianity will in some Degree be recovered in the Sight of Infidels*; which, by the many Bloody and unjust Wars of Christians, not only with them, but one with another, hath been greatly impaired. For, to the Scandal of that Holy Profession, Christians that glory in their Saviour's Name, have long devoted the Credit and Dignity

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(t) Section ix answers certain objections that may be advanced against the Design—as, for example, that it will lead to effeminacy in Europe, that it involves loss of sovereignty on the part of individual States, etc.

of it to their Worldly Passions, as often as they have been excited by the Impulses or Ambition or Revenge. They have not always been in the Right: Nor has Right been the Reason of War: and not only Christians against Christians, but the same Sort of Christians have embrewed their Hands in one another's Blood, Invoking and Interesting, all they could, the Good and Merciful God to prosper their Arms to their Brethren's Destruction: Yet their Saviour has told them, that he came to save, and not to destroy the Lives of Men (u). . . .

### *Conclusion.*

I will conclude this my Proposal for an European, Sovereign, or Imperial Dyet, Parliament, or Estates, with that which I have touched upon before, and which falls under the Notice of Every One concerned, by coming Home to their Particular and Respective Experience within their own Sovereignties. That by the same Rules of Justice and Prudence, by which Parents and Masters Govern their Families, and Magistrates their Cities, and Estates their Republicks, and Princes and Kings their Principalities and Kingdoms, Europe may obtain and Preserve Peace among the Sovereignties. . . .

But I confess I have the Passion to wish heartily that the Honour of Proposing and Effecting so Great and Good a Design, might be owing to England, of all the Countries of Europe, as something of the Nature of our Expedient was, in Design and Preparation, to the Wisdom, Justice, and Valour, of Henry the Fourth of France, whose Superior Qualities raising his character above those of His Ancestors, or Contemporaries, deservedly gave Him the Stile of Henry the Great. For he was upon obliging the Princes and Estates of Europe to a Political Ballance, when the Spanish Faction, for that Reason, contrived, and accomplished His Murder, by the Hands of Ravillac (v).

(u) Other benefits outlined include Prosperity, Security, the Advance of the Arts, Learning, etc.

(v) This is a reference to the Grand Design of Henry IV of France. (See the present series, Sully's *Grand Design of Henry IV*.)



# William Penn's Address to the American Indians

(November, 1682) (*w*).

"The Great Spirit who made me and you, who rules the heavens and the earth, and who knows the innermost thoughts of men, knows that I and my friends have a hearty desire to live in peace and friendship with you, and to serve you to the utmost of our power. It is not our custom to use hostile weapons against our fellow creatures, for which reason we have come unarmed. Our object is not to do injury, and thus provoke the Great Spirit, but to do good.

"We are met on the broad pathway of good faith and goodwill, so that no advantage is to be taken on either side, but all to be openness, brotherhood, and love."

[Here the Governor unrolls a parchment containing stipulations for trade, and promises of friendship, which, by means of an interpreter, he explains to them, Article by Article, and placing it on the ground, he observes that the ground (*x*) shall be common to both people. He then proceeds:]

"I will not do as the Marylanders did, that is, call you children or brothers only; for parents are apt to whip their children too severely, and brothers sometimes will differ; neither will I compare the friendship between us to a chain, for the rain may rust it, or a tree may fall and break it, but I will consider you as

(*w*) Clarkson: *Memoirs of the Life of W. Penn* (1813), Vol. I, p. 341. Janney: *Life of Wm. Penn* (1852), p. 203. The address was delivered on the occasion of the making of the famous Treaty of Friendship with the Indians, and inaugurated a policy of government known as the "holy experiment." The written record of the Treaty is not known to survive. It is believed, however, to have been quoted in outline by Governor Gordon to the same Indians in 1728 (Janney, p. 205 and p. 37, *post*). Voltaire says of the Treaty: "It was the only Treaty between these people and the Christians that was not ratified by an oath, and that was never broken." It remains the most successful treatment of Aborigines that history records. No drop of Quaker blood was ever shed by an Indian. No breach of the peace occurred for over seventy years, till the Quaker Government of Pennsylvania was overthrown. Penn, as is well known, took no lands from the Indians except by purchase (see Oldmixon, who knew Penn personally, *British Empire in America* (London, 1708), Vol. I, pp. 166-7; the *Pennsylvania Magazine*, Vol. 6, p. 221).

(*x*) The Treaty was made at Shackamaxon (then Sachamaxing, the "place of Kings") under a great elm tree on the banks of the Delaware river.



the same flesh and blood with the Christians, and the same as if one man's body were to be divided into two parts'' (y).

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**Selections from Governor Gordon's Speech to the American Indians (May 26, 1728) (z).**

MY FRIENDS AND BRETHREN,—You are sensible that the great William Penn, the father of this country, when he first brought the people with him over the broad sea, took all the Indians, the old inhabitants, by the hand, and because he found them to be a sincere, honest people, he took them to his heart, and loved them as his own. He then made a strong league and chain of friendship with them, by which it was agreed that the Indians and the English, with all the Christians, should be as one people. . . .

I am now to discourse with my brethren the Conestogoes, Delawares, Ganawese and Shawnese Indians upon the Susquehannah, and to speak to them.

MY BRETHREN,—You have been faithful to your leagues with us, your hearts have been clean, and you have preserved the chain from spots or rust, or if there were any, you have been careful to wipe them away; your leagues with your father William Penn, and with his governors, are in writing on record, that our children and our children's children may have them in everlasting remembrance. And we know that you preserve the memory of those things amongst you, by telling them to your children, and they again to the next generation, so that they remain stamped on your minds never to be forgot.

The chief heads or strongest links of this chain, I find, are these nine, *viz.* :—

1st. That all Wm. Penn's people or Christians, and all the

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(y) This address is similar in language to Penn's Letter to the Indians (London, 18th of 8th mo. 1681)—Penn's Works, 1726, Vol. I, p. 121.

(z) The speech was made to the same Indians with whom Penn had entered into his Treaty of Friendship, and it is believed that it is this Treaty whose "chief heads" are quoted therein (see note (w), p. 36)—Janney: Life of Wm. Penn, p. 204.

Indians, should be brethren, as the children of one Father, joined together as with one heart, one head, and one body.

2nd. That all paths should be open and free to both Christians and Indians.

3rd. That the doors of the Christians' houses should be open to the Indians, and the houses of the Indians open to the Christians, and that they should make each other welcome as their friends.

4th. That the Christians should not believe any false rumors or reports of the Indians, nor the Indians believe any such rumors or reports of Christians, but should first come as brethren to inquire of each other; and that both Christians and Indians, when they have any such false reports of their brethren, they should bury them as in a bottomless pit.

5th. That if the Christians heard any ill news, that may be to the hurt of the Indians, or the Indians heard any such ill news, that may be to the injury of the Christians, they should acquaint each other with it speedily, as true friends and brethren.

6th. That the Indians should do no manner of harm to the Christians, nor to their creatures, nor the Christians do any hurt to the Indians, but each treat the other as brethren.

7th. But as there are wicked people in all nations, if either Indians or Christians should do any harm to each other, complaint should be made of it by the persons suffering, that right may be done; and when satisfaction is made, the injury or wrong shall be forgot, and be buried as in a bottomless pit.

8th. That the Indians should in all things assist the Christians and the Christians assist the Indians, against all wicked people that would disturb them.

9th. And lastly, that both Christians and Indians should acquaint their children with this league and firm chain of friendship made between them, and that it should always be made stronger and stronger, and be kept bright and clean, without rust or spot, between our children and children's children, while the creeks and rivers run, and while the sun, moon and stars endure (a).

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(a) The elm tree under which the Treaty was ratified, called the treaty tree, was blown down in 1810. It was 24ft. in girth, and believed to be about 280 years old. On the site of the treaty tree a small monument has been

**Selection from War, its Causes, Consequences, Lawfulness, etc. (b).** By JONATHAN DYMOND.

We willingly *grant* that not all the precepts from the Mount were designed to be literally obeyed in the intercourse of life. But what then? To show that their meaning is not literal is not to show that they do not forbid War. We ask in our turn, what *is* the meaning of the precepts? What *is* the meaning of "Resist not evil"? Does it mean to allow bombardment, devastation, slaughter? If it does not mean to allow all this it does not mean to allow War. What, again, do the objectors say is the meaning of "Love your enemies," or of "Do good to them that hate you"? Does it mean, "Ruin their commerce," "sink their fleets," "plunder their cities," "shoot through their hearts"? If the precept does not mean to allow all this, it does not mean to allow War. It is, therefore, not at all necessary here to discuss the precise signification of some of the precepts from the Mount, or to define what limits Christianity may admit in their application; since whatever exceptions she may allow, it is manifest what she does not allow; for if we give to our objectors whatever licence of interpretation they may desire, they cannot without virtually rejecting the precepts, *so* interpret them as to make them allow War (c).

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erected by the Penn Society of Philadelphia (Janney : Life of Wm. Penn, p. 206).

(b) First published in 1823; West, Newman & Co. (1915), at p. 36.

(c) It should, however, be stated that some are prepared with Mr. G. K. Chesterton expressly to deny that there is "the least inconsistency between loving men and fighting them, if we fight them fairly and for a good cause" (Life of St. Francis, p. 52). I do not know what forms of "fighting" are here referred to. But it is difficult to believe that anyone can with confidence maintain that the indiscriminate methods of mass-slaughter from land, sea and air as practised in modern warfare are completely reconcilable with loving and forgiving those against whom such methods are directed. In the absence of any recognised code of rules covering *all* the operations of war (including newer developments introduced during war) and an accepted authority to interpret and apply them, it is impossible accurately to define unfairness in warfare, or successfully to prove any alleged unfairness. If propaganda departments can be trusted, the enemy always fights unfairly; if not, these recent and powerful instruments of war are, by ordinary rules of morality, themselves unfair. How difficult it is for the private individual to form any reliable judgment as to the justice of his country's cause before or during the progress of the war is pointed out on p. 45, *post*

Of the injunctions that are contrasted with "eye for eye and tooth for tooth," the entire scope and purpose is the suppression of the violent passions, and the inculcation of forbearance, and forgiveness, and benevolence, and love. They forbid, not specifically the act, but the *spirit* of War; and this method of prohibition Christ ordinarily employed.

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### **To Men and Women of Goodwill in the British Empire (d).**

#### *A Message from the Religious Society of Friends.*

We find ourselves to-day in the midst of what may prove to be the fiercest conflict in the history of the human race. Whatever may be our view of the processes which have led to its inception, we have now to face the fact that war is proceeding upon a terrific scale and that our own country is involved in it.

We recognise that our Government has made most strenuous efforts to preserve peace, and has entered into the war under a grave sense of duty to a smaller State towards which we had moral and treaty obligations. While, as a Society, we stand firmly to the belief that the method of force is no solution of any question, we hold that the present moment is not one for criticism, but for devoted service to our nation,

What is to be the attitude of Christian men and women and of all who believe in the brotherhood of humanity? In the distress and perplexity of this new situation, many are so stunned as scarcely to be able to discern the path of duty. In the sight of God we should seek to get back to first principles, and to determine on a course of action which shall prove us to be worthy citizens of His Kingdom. In making this effort let us remember those groups of men and women, in all the other nations concerned, who will be animated by a similar spirit, and who believe with us that the fundamental unity of men in the family of God is the one enduring reality, even when we are forced into an apparent denial of it.

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(d) The message was issued by the Meeting for Sufferings—the executive body of the Society of Friends—in August, 1914, and was widely circulated.

Although it would be premature to make any pronouncement upon many aspects of the situation on which we have no sufficient data for a reliable judgment, we can, and do, call ourselves and you to a consideration of certain principles which may safely be enunciated.

1.—The conditions which have made this catastrophe possible must be regarded by us as essentially unchristian. This war spells the bankruptcy of much that we too lightly call Christian. No nation, no Church, no individual can be wholly exonerated. We have all participated to some extent in these conditions. We have been content, or too little discontented, with them. If we apportion blame, let us not fail first to blame ourselves, and to seek the forgiveness of Almighty God.

2.—In the hour of darkest night it is not for us to lose heart. Never was there greater need for men of faith. To many will come the temptation to deny God, and to turn away with despair from the Christianity which seems to be identified with bloodshed on so gigantic a scale. Christ is crucified afresh to-day. If some forsake Him and flee, let it be more clear that there are others who take their stand with Him, come what may.

3.—This we may do by continuing to show the spirit of love to all. For those whose conscience forbids them to take up arms there are other ways of serving, and definite plans are already being made to enable them to take their full share in helping their country at this crisis. In pity and helpfulness towards the suffering and stricken in our own country we shall all share. If we stop at this, "what do we more than others?" Our Master bids us pray for and love our enemies. May we be saved from forgetting that they, too, are the children of our Father. May we think of them with love and pity. May we banish thoughts of bitterness, harsh judgments, the revengeful spirit. To do this is in no sense unpatriotic. We may find ourselves the subjects of misunderstanding. But our duty is clear—to be courageous in the cause of love and in the hate of hate. May we prepare ourselves even now for the day when once more we shall stand shoulder to shoulder



with those with whom we are now at war, in seeking to bring in the Kingdom of God.

4.—It is not too soon to begin to think out the new situation which will arise at the close of the war. We are being compelled to face the fact that the human race has been guilty of a gigantic folly. We have built up a culture, a civilisation, and even a religious life, surpassing in many respects that of any previous age, and we have been content to rest it all upon a foundation of sand. Such a state of society cannot endure so long as the last word in human affairs is brute force. Sooner or later it was bound to crumble. At the close of this war we shall be faced with a stupendous task of reconstruction. In some ways it will be rendered supremely difficult by the legacy of ill-will, by the destruction of human life, by the tax upon all in meeting the barest wants of the millions who will have suffered through the war. But in other ways it will be easier. We shall be able to make a new start, and to make it all together. From this point of view we may even see a ground of comfort in the fact that our own nation is involved. No country will be in a position which will compel others to struggle again to achieve the inflated standard of military power existing before the war. We shall have an opportunity of reconstructing European culture upon the only possible permanent foundation—mutual trust and goodwill. Such a reconstruction would not only secure the future of European civilisation, but would save the world from the threatened catastrophe of seeing the great nations of the East building their new social order also upon the sand, and thus turning the thought and wealth needed for their education and development into that which could only be a fetter to themselves and a menace to the West. Is it too much to hope for that we shall, when this time comes, be able as brethren together to lay down far-reaching principles for the future of mankind such as will insure us for ever against a repetition of this gigantic folly? If this is to be accomplished it will need the united and persistent pressure of all who believe in such a future for mankind. There will still be multitudes who can see no good in the culture of other nations, and who are unable to believe in any genuine brotherhood among those of

different races. Already those, who think otherwise, must begin to think and plan for such a future if the supreme opportunity of the final peace is not to be lost, and if we are to be saved from being again sucked down into the whirlpool of military aggrandisement and rivalry. In time of peace all the nations have been preparing for war. In the time of war let all men of goodwill prepare for peace. The Christian conscience must be awakened to the magnitude of the issues. The great friendly democracies in each country must be ready to make their influence felt. Now is the time to speak of this thing, to work for it, to pray for it.

5.—If this is to happen it seems to us of vital importance that the war should not be carried on in any vindictive spirit, and that it should be brought to a close at the earliest possible moment. We should have it clearly before our minds from the beginning that we are not going into it in order to crush and humiliate any nation. The conduct of negotiations has taught us the necessity of prompt action in international affairs. Should the opportunity offer, we, in this nation, should be ready to act with promptitude in demanding that the terms suggested are of a kind which it will be possible for all parties to accept, and that the negotiations be entered upon in the right spirit.

6.—We believe in God. Human freewill gives us power to hinder the fulfilment of His loving purposes. It also means that we may actively co-operate with Him. If it is given to us to see something of a glorious possible future, after all the desolation and sorrow that lie before us, let us be sure that sight has been given us by Him. No day should close without our putting up our prayer to Him that He will lead His family into a new and better day. At a time when so severe a blow is being struck at the great causes of moral, social and religious reform for which so many have struggled, we need to look with expectation and confidence to Him, whose cause they are, and find a fresh inspiration in the certainty of His victory.

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**Selection from "The True Way of Life" (e). By ED. GRUBB.**

The duty of the Christian to his country, if he is convinced that the law of love is meant to rule, and is capable of ruling, the whole of human life, is to use his influence, both consciously and unconsciously, to draw the community into the mind of Christ. When war threatens, he is called, not to a mere negative "non-resistance," but to the active work of peace-making: by practising on his own part forgiveness and love, "thinking no evil," carrying with him an atmosphere of peace and goodwill, bringing into his intercourse with others a spirit in whose presence revengeful and unworthy thoughts are shamed into silence. He must strive that the spirit of justice and fellowship may replace that of greed and self-aggrandisement in the social and industrial order, and, in so far as his influence and his vote have weight, in the foreign policy of his country.

But if, in spite of all his efforts, his nation is drawn into war, what then? Then loyalty to his country, and loyalty to Christ and His Way of Life, may appear in sharpest conflict. If he believes that his religion was meant to cover the whole of life—that his duty as a citizen is part of his religion—he can neither be satisfied to follow his country's call at the cost of disloyalty to Christ, nor the call of Christ at the cost of disloyalty to his country. What is he to do? There are three possible answers, and I see no more.

(i) The most plausible is that he must stand by his country if he is convinced that her cause is just; that she is being wrongfully attacked, or is fighting for some eternal principle of right. He can be no party to unprovoked aggression, but in a war of defence he must take his country's part, since by abstaining he will be virtually abetting wrong.

This answer provides in fact a minimum of guidance. For, as we have seen, no belligerent state ever admits that it is guilty

(e) Headley Bros. (1915). This book was originally intended as an answer to Mr. J. St. Loe Strachey's *New Way of Life*, in which compulsory military training as advocated by the National Service League was supported. In the later editions the controversial tone was largely dropped, and the author endeavoured to present what he conceived to be the Christian way of life, with special reference to war.

of aggression! In every war each Government calls upon its people to defend the State or Empire from unjust attacks. The information afforded to the individual citizen is nearly all *ex parte*; almost the only knowledge he can have of the opposing case is such as is allowed to filter through newspaper writers, who are not usually models of impartiality. Even Blue-books are so edited as to put the case for the Government in the most favourable light possible. Not until many years have elapsed is it possible to form a really impartial judgment as to which side caused the war, or what faults there were in the policy and conduct of both parties. In the light of history we can usually see that in any great conflict the blame cannot be assigned to one side alone, but must be divided, in different degrees it may be, between the two (*f*).

(ii) This being so, it is clearly impracticable for the private citizen to withhold his decision (even were he in any mood to do so) till he has had time to weigh the evidence impartially, and satisfy his conscience that the cause of his country is ideally just. And so we have the answer, which satisfies many, "my country, right or wrong." This answer appears to have satisfied the compilers of the thirty-nine Articles of the Church of England, where it is laid down that it is the duty of the Christian, at the command of the magistrate, to engage in war (*g*). Nothing is said about the justice of the cause; that, apparently, was not regarded as within the competence of the individual to consider. The "magistrate" bore the responsibility; the private citizen had only to obey . . . (*h*).

Even if the war be one for forcing opium on the Chinese, the "Christian" and citizen must stand by his country. This is surely to teach that, when the conflict of loyalties arises, country comes before Christ; that the citizen has no responsibility for his country's conduct; that he may rightly, if ordered

(*f*) The author here appends a note to the effect that, in order to prevent misapprehension, he considers it right to state that in his judgment the main direct cause of the war (1914-1919) was the world ambition of Germany, with the hasty mobilisation of Russia as a powerful contributory cause.

(*g*) See Article XXXVII.

(*h*) Here follows a long quotation from Canon Streeter's pamphlet, *War, This War, and the Sermon on the Mount*, p. 15 ("Papers for War Time," No. 20), in support of this position.

by the "magistrate" to do so, help his country to soil her honour by an unjust war. Truly, I have not so learned Christ.

(iii) There is a third answer, which also relieves the individual citizen from the responsibility of making an impossible decision. It is that the Law of Christ forbids him to take up arms at all for the slaughter of his fellowmen, even in a cause which may eventually prove to have been a just one. This was the answer of the Christian Church for the first two centuries, and it is the doctrine which, since the middle of the seventeenth century, the Society of Friends, almost alone among the Christian Churches, has endeavoured to uphold. It means that if loyalty to his country appears to come into conflict with loyalty to Christ, the true Christian must at all costs choose to follow Christ, and to tread the path his Master took. While he recognises to the full the spirit of sacrifice and self-devotion that leads others, at their country's call, to surrender well-being and even life itself, for him the way of fighting is the exact opposite of the way of the Cross. He simply cannot go out to kill his fellowmen in the spirit of Him who came "not to destroy men's lives but to save them. . . ."

I have tried to show, in preceding chapters, that in my judgment it *never* is the duty of a nation to fight when it makes itself judge in its own cause. But, apart from this, and supposing that, in our present imperfect moral condition, "defensive war" were a duty for the State, I do not think it would follow that it would be the duty of all able-bodied male Christians to contribute to the fighting. For those who have not seen the higher way it may be. But . . .

"We needs must choose the highest when we see it," and the fact that others have not seen it does not release from the obligation him who believes that Christ has shown him the highest. Having seen for himself what presents itself as the true ideal, he cannot, without disloyalty to Christ, in practice accept another. The men who do not see it he does not for a moment condemn for being true to their convictions, their willingness to sacrifice everything at the call of apprehended duty shames him with a sense of his own shortcomings; yet he is inwardly certain that they are mistaken.

He feels it an unjust accusation when he is charged with



willingness "to eat his bread in safety at the price of other men's blood" (i); or to "let others be sacrificed for himself" (i). If the spirit of Christ is his, he cannot desire, either for himself or for those he loves, the material security which such sacrifice affords him, in so far as this is bought by the destruction of the lives of others. He longs to show his people what he believes to be a better way. He is sure that a far higher security—not material only, but moral and spiritual—might have been found along another and seemingly more dangerous path; and to that path he cannot call his nation except by showing that he at least, is prepared to take it, and to bear whatever cost this may entail. The inward suffering which his refusal to fight may bring—its apparent selfishness and cowardice, and his consequent loss of honour and esteem—may be as hard to bear as the more conspicuous sacrifice of the battlefield.

However this may be, his path will not be the negative one of mere "non-resistance," which might be dictated by unworthy motives and be really disloyal to his country. If it is from sincere conviction that he refuses to take part in war, he will be willing and anxious to accept his share of sacrifice in other ways; and he may do his own nation as well as others a truer service by following the highest that he knows, than he could do by fighting for her sake. His must still be the positive duty of service to his country and to humanity, of binding up the wounds of war, of helping to repair its desolations, of striving especially to soften the hard lot of its innocent victims, of whatever race. His country's call for sacrifice does not leave him cold. Though he cannot take up arms to fight, and is willing to endure whatever suffering this may bring, he is ready also with heart and hand and head to give himself to the work of overcoming evil with good, for this is the Christian way.

All through human history, the transformation of the world order has been accomplished—whatever moral progress humanity has made has, so far, been won—by the faithfulness of the few to the higher vision that had come to them. Hebrew prophets like Jeremiah were willing to suffer as traitors to their people

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(i) These expressions are taken from Canon Streeter's pamphlet already referred to (see note (h), p. 45, *ante*).

rather than refrain from uttering the truth that burnt like fire in their bones. It was their faithfulness that prepared the minds of a few to receive the perfect revelation of the True Way of Life (*k*). It was the faithfulness of Him to whom that revelation was committed, which brought into the world a new flood of light and love and moral power; the faithfulness of those who received it that gave them victory over the world order.

For "the Divine Order is ready to break into the world as soon as men are ready to let it break into their own hearts."

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**Selection from "The Christian and War." BY W. BLAIR  
NEATBY (*l*).**

The Society of Friends, which has taught the unlawfulness of war in any circumstances, has equally taught that there is a light shed in all hearts by the grace of God—a beam of Christ, the light of every man. This light is often referred to as "that of God in every man," which may, by the right appeal, be "raised up" into effective strength within him.

That gives the clue to the difficulty, "What about Belgium?" We say that it is only by creating in the face of the world's greed and cruelty a force of love strong enough to raise up "that of God"—God's inward witness—in the breasts of the cruel and rapacious, that we can erect a permanent rampart between the weak nations and the ferocious neighbours that would prey upon them. We are, indeed, trustees for countless Belgians in the long future, and we can discharge our debt to them in no other way than by standing always as witnesses to forces that may be trusted, but that never will be generally trusted until men who profess to have had the vision of them are ready to act on the belief of their irresistible might.

Christ acted so; and we cannot even imagine Him acting otherwise. The early Christians, with virtually unanimity, did likewise. "I am a Christian, and therefore I cannot fight," was

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(*k*) In the Acts of the Apostles Christianity is five times designated as "The Way."

(*l*) Friends Trust Association, 1916.

their steady formula. If all Christians, from then till now, had maintained that attitude, how long since would wars have ceased?

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**Selection from the Epistle from London Yearly Meeting (m).**

*(Held in London, May 19—26, 1915.)*

TO FRIENDS EVERYWHERE.

How do we stand to-day? Many of our fellow Christians, some even of our own members, are actively supporting a war that they detest as much as we do. We honour the self-sacrifice, the courage and devotion, of those who seek to forward or defend the kingdom of righteousness by means of war. But we claim with absolute conviction, though with great humility, that only spiritual power can defend or advance the spiritual causes which matter to the world. We claim that there is a better way, and that Love alone can avail to find and follow it. We appeal to men and women everywhere to put their trust in the "Lord God omnipotent" (n) and to tread the way of Christ whatever it may involve.

The spirit of cruelty that war engenders cannot be cast out by retaliation, but only by a change of heart. This change may seem to us impossible, but if we really believe in God's love, we dare not limit its redemptive power.

It is our conviction that the will of God for us and for all His children is that they should make the great venture of trusting to Him not only their individual lives but also the life of their nation. Vast and undiscovered spiritual forces would be released, for the liberation of the world from fear and bloodshed, if but one nation had the faith and courage to disarm. When is this great experiment to be tried, if not at the conclusion of the present conflict?

It has been an encouragement to us at this Meeting to know that the bulk of our young men are prepared to refuse military

(m) See note (x), p. 21.

(n) Rev. xix, 6 (A.V.).

service of any kind. We have also been stirred by the outspoken willingness of many women Friends to accept all the consequences involved in taking our position. It is our prayer that we may all be strong to endure if a day of trial should come, in all humility taking our stand with those who by suffering have served mankind.

We are deeply conscious that our reliance upon Love as the greatest power in the world cannot leave us content with a mere refusal to bear arms or to seek armed protection. We are glad that, at the present time, many of our Friends have found opportunities for helping the victims of war, of whatever nation, both at home and abroad. Nor would we forget that the most urgent need is the creation of an atmosphere in which hate and wrong may pass away from our own and other souls. Amidst all the temptations to excitement and passion, it is only in the quiet of prayer and by self-discipline that healing can come through us.

War we know is but a terrible symptom of the still more terrible disease of self-seeking which permeates our whole social system. In giving and serving, rather than in possessing and being served, so only shall we come to a state of society in which the roots of war no longer exist. To this end we must seek a way of life which shall be a practical expression of the will to love and serve. In our business life, and in our leisure occupations, we should ever have before us the welfare of the nation and of humanity. We must be untiring in true national service—devoting to it prayer, hard thinking, training and material resources, and bringing home its claims to every member of our Society.

The world can only be won for Christ as men are possessed by the infinite power which we call the love of God—the love that will not let men go—the love that “beareth all things, believeth all things, hopeth all things, endureth all things” (o), and that never faileth—the love that is Divine Omnipotence.

Signed, in and on behalf of the Meeting,

JOHN H. BARLOW,  
*Clerk.*

## Selection from " Friends and War: A New Statement of the Quaker Position."

(Adopted by the Conference of All Friends, 1920 (p) ).

The Christianity which makes war impossible is a way of life which extirpates or controls the dispositions that lead to war. It eradicates the seeds of war in one's daily life. It translates the beatitudes out of the language of a printed book into the practice and spirit of a living person. It is not consistent for anyone to claim that his Christianity as a way of life stops him from war unless he is prepared to adjust his entire life—in its personal aspirations, in its relations with his fellows, in its pursuit of truth, in its economic and social bearings, in its political obligations, in its religious fellowships, in its intercourse with God—to the tremendous demands of Christ's way. If Friends are to *challenge* the whole world and claim the right to continue in the ways of peace while everybody else is fighting, they must reveal the fact *that they are worthy of peace and that they bear in their bodies the marks of the Lord Jesus.*

This fundamental religious ground, thus briefly reviewed (q) in its historical interpretation, remains to-day the primary ground of the Quaker refusal to fight. Friends are as conscious as other people are of the complications of the social and political order. They are aware that perfect conditions are not to be expected at this stage of life. The Kingdom of God has obviously not yet come in all of its extensity or intensity. But they take the way of life, revealed by Christ, as a divinely given programme of human action and of social relationship. They do not rest their case on sporadic texts. They find themselves confronted with a Christianity, the Christianity of the Gospels, that calls for a radical transformation of man, for the creation of a new type of person and for the building of a new social order, and they take this with utmost seriousness as a thing to be ventured and tried. That it is difficult and that it involves living, even at this

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(p) This conference was summoned expressly to consider the attitude of Friends towards war, and was attended by Friends from all parts of the world.

(q) In the earlier portion of the pamphlet.



imperfect stage, as though the Kingdom of God had come and as though love were the supreme force of life, seem to them no adequate reasons against this experiment. The only way it ever can come, they believe, is to have a nucleus of people who practise it here in this very difficult present world, who have faith enough in it to make a venture and experiment of trying it, of living by it and, if need be, of dying for it. Finally, they profoundly believe that Christ's own loyalty and dedication to it, even though it cost Him life itself, has made it for ever a way of sacred obligation. As this position is a unique one, and does not conform to the interpretation of Christianity generally held by the Churches throughout the world, it behoves Friends to be restrained in their judgment of others, and very careful not to assume spiritual superiority. They must themselves fully recognise the difficulties of maintaining their position in a world that does not yet accept it, and they can go forward in the difficult practice of their faith only if they clearly believe that they have found a way of life which is divinely revealed, and which, therefore, is backed by the eternal nature of things.

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No. 5.

*Selections*

*from the second edition of the*

**Abrégé du Projet de Paix  
Perpétuelle.**

BY

**C. I. CASTEL DE SAINT-PIERRE, Abbot of Tiron.**

1738.

Translated by H. HALE BELLOT, M.A.

WITH AN INTRODUCTION

BY

**PAUL COLLINET,**

*Professor of Law in the University of Paris.*

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## INTRODUCTION.

CHARLES FRANÇOIS IRENÉE CASTEL DE SAINT-PIERRE, born on February 13, 1658, at the *château* of Saint-Pierre-Eglise, between Cherbourg and Barfleur, the eighth of the thirteen children of a *Grand Bailli* of the Cotentin, related to the Marshal Villars and to the Marshal Bellefonds, studied theology at Caen, and established himself in Paris in a small house in the Faubourg Saint-Jacques in 1680, there to lead the unfettered life of a student. Natural science and medicine first caught his interest, to be followed by moral and political philosophy. He “sought after great men.” He frequented the *salons*. He called upon La Bruyère, who, annoyed by his passion for argument, made fun of him in his *Caractères* under the name of *Mopse* (1690). He was easy to caricature. A man with the courage of his convictions, and sure of their soundness, he was careless to conceal his self-esteem, “shameless and unabashed.”

The Abbé arrived in Paris with works on the reform of government and the reduction of the volume of litigation either already written or at the back of his mind. The better to obtain an insight into the court, he bought, about 1688, the office of first almoner to Madame, Duchess of Orleans, the celebrated Princess Palatine, mother of the Regent, a post which he resigned some time before 1711. The friendship of Fontenelle and the interest of Madame de Lambert, who kept one of the best known of the *salons*, procured him in 1694 the entry to the French Academy, although he had as yet published none of his political studies.

He became commendatory abbot of Tiron in 1702.

In January, 1712, the Abbé de Saint-Pierre was chosen as his secretary by the abbé and future cardinal, Polignac, one of the three plenipotentiaries of France at the conference at Utrecht, which was destined to end the war of the Spanish Succession. He had then already written the first draft of the work on an Everlasting Peace, which was to make him famous, and from which are taken the selections which follow. But neither the public nor Louis XIV. yet knew of the work; a

privileged few, the Duchess of Orleans, and the Duke of Burgundy, the hope of the reformers, alone had read it in manuscript. The book, which I shall discuss below in more detail, was printed during the conference at Utrecht itself, in 1713, under the title of *Projet de paix perpétuelle*.

The Abbé remained in Holland for over a year. The stay had a great influence upon his political ideas, and enabled him to study commerce and banking, the ground-work of that economic system which was the precursor of the utilitarianism of Bentham.

On his return from Holland in 1713, still living in the apartments of the Duchess of Orleans in the Palais Royal, where he stayed until after 1739, he published between 1714 and 1718 a number of *mémoires*, particularly that on the *Taille Tarifée*, in which he recommended a graduated income tax in place of the arbitrary *taille* then in force. He became more and more, as he put it, "counsel for the commonweal." But in spite of the change of system after the death of Louis XIV., his too bold opinions met with no success. On the contrary, Cardinal Polignac, himself formerly his patron, caused him to be excluded, in 1718, from the Academy for having disparaged the memory of the great King in his famous *Discours sur la Polysynodie* (or multiplicity of Councils), the best of his studies on domestic politics, as the *Projet de paix perpétuelle* is the best on international law.

Although then sixty years old the Abbé did not go into retirement. He found in private society at the *Entresol*, which was organised after 1720 after the fashion of the English clubs, and became the parent of the *Académie des sciences morales et politiques*, willing auditors whom he deluged with innumerable projects of the most diverse kind designed to render society "perfect":—statistics, administration, education, medicine, the peerage, war, navigation, finance, diplomacy, ethics, the drama, preaching. He recommended institutions which have only been set up in our own day—schools for girls, an Academy of Medicine, a *Banque de France*, a Prize Court—or which have not yet been and perhaps never will be realised—the abolition of pauperism, the marriage of Catholic priests, spelling reform, the election of officials, &c. He invented a machine to provide exercise indoors, the "*tremousseur*." He coined words, two of which

have survived him, "bienfaisance" (beneficence) and "gloriole" (vainglory).

These bold schemes, which caused him to be regarded by the first minister, Fleury, as a "tiresome and disturbing agitator," caused the closure of the *Entresol* in 1731. The Abbé de Saint-Pierre continued his propaganda in the *salons* of Madame de Tencin, Madame Geoffrin and Madame Dupin, the grandmother of Georges Sand. He was, according to Rousseau, the "spoilt child" of the fine ladies of the time, although, on his own avowal, his talk was not as good as his ideas. From this period date the sixteen duodecimo volumes of the *Ouvrages de Politique et de Morale* (1733—1741).

Leaving unpublished his *Annales politiques* (a), he ended his laborious life full of hope on April 29, 1743, at the age of eighty-five, at 16 Faubourg Saint-Honoré.

The Abbé de Saint-Pierre, in spite of vexations, in spite of the defeat of his plans of reform, remained, in fact, all his life an optimist. He trusted to the prevalence of reason, while proclaiming that men were but children, and kings still more childish. Rousseau summed him up: "He would have been a very wise man had he not been so absurdly reasonable." One of his biographers, Goumy, has called him the patriarch of the "Philosophes," for with his bold ideas he was the forerunner of the writers known by that name who prepared men's minds for the French Revolution of 1789. But he had over them the advantage, due doubtless to his Norman origin, of possessing the sense of "utility," of what was practicable. In his own words, he wished to make government "much more honourable for the king, much more convenient for ministers, and much more useful to the people." Yet in his own days, and since, he has been regarded as a dreamer.

#### THE PROJET DE PAIX PERPÉTUELLE.

##### *The peculiar importance of the text printed.*

The Abbé de Saint-Pierre had by 1707 sketched out his ideas for securing everlasting peace and had already begun to elaborate

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(a) Published after his death, and re-edited by Joseph Drouet, Paris, 1912.

them before 1711 (b). The work in its first published form was printed at Cologne in 1712 under the title of *Mémoire pour rendre la paix perpétuelle en Europe*; in its final form it appeared at Utrecht in 1713 under the title of *Projet pour rendre la paix perpétuelle en Europe*, 2 vol.; it was completed in 1717 by the issue of a third volume *Le Projet de traité pour rendre la paix perpétuelle entre souverains chrétiens*.

An *Abrégé du Projet de paix perpétuelle* was published by the author in 1729, of which there appeared a new edition in 1738.

The *Projet* consists of five fundamental articles of which we shall give a summary, omitting for the sake of clarity the complicated and tedious details (c).

First, after a Preface, the author gives the reasons for which the Christian Powers of Europe should sign these five articles, by adding up under nine headings the advantages which they would derive from the signature of an everlasting peace, both international and domestic—security, economies, growth of commerce, general welfare (d).

To secure a permanent peace the twenty-four Christian States of Europe, maintained within the frontiers assigned to them by the Treaty of Utrecht, are to form among themselves a Grand Alliance or European Union. The twenty-four States are each to nominate a delegate, two substitutes, and two agents to take the places of the substitutes. Large and small States are to have equal representation. The twenty-four delegates or plenipotentiaries are to constitute the Senate of Peace, which is to sit permanently at Utrecht. The President is to be the Prince of Peace. To secure the independence of the Senate he is to change each week.

(b) *Correspondence de Madame, Duchesse d'Orleans* . . . Ranke et Holland, traduction Jaeglé, 12mo, Paris, 1880, II., p. 86: " Marly, 28 June, 1711 (to the Duchess of Hanover), . . . you and I are among the brotherhood of peace-loving folk as much as the Abbé de Saint-Pierre, who is now my first almoner. He draws up project upon project for securing everlasting peace. He wants to write a whole book upon it. Here are his first sheets; but I doubt if he completes the work; people are already making fun of it. . . ."

(c) The extracts which follow are taken from the *Abrégé*. They differ in some respects from the text of the *Projet*. We have deemed it best to summarise here the original scheme of the author, according to the *Projet*. The reader will thus be enabled to trace the development of the volatile ideas of a mind always in a state of effervescence.

(d) *Infra*, pp. 24-5, 53-4.

Such is Article I. (*e*).

Article II. relates to the revenue necessary to the support of an international army (See Article IV.), to the payment of the plenipotentiaries and resident Ministers, and to the organisation, until an Asiatic Union is also established, of the defence of the frontiers of the European Union against invasion from the East. The contribution of each State is to be determined monthly by the delegates of the Grand Alliance, and is to be in proportion to the revenue and charges of the States. It is to be a European Month after the pattern of the Roman Month of the Holy Roman Empire (*f*).

Article III. is the most important and amounts to this:—

In case of dispute between two States, the States in disagreement must first seek reconciliation through the *obligatory mediation* of the rest of the members of the Grand Alliance. In event of the failure of mediation, an award or *arbitration* becomes necessary. It is to be rendered by the Senate of Peace, which thus becomes, above all, a tribunal, a permanent and compulsory Court of Arbitration. The award is to be made first, provisionally, by a plurality of votes. The definitive award is only to be made five years later and must be adopted by a majority of three-fourths: the caution of the author is to be observed (*g*).

How is the award to be executed? The author answers, in Article IV., “by force.” What force? He perceives that the Powers will in a time of peace only maintain weak forces for the preservation of civil order: that is what is meant by disarmament, a source of economy. If it should be necessary to proceed against one of the Powers which refuses to submit to an award or to regulations made by the Grand Alliance, or enters into treaties incompatible with it, or makes preparations for war (precluded in theory by supervision by representatives resident in each State), each State must furnish a contingent of special troops, which shall be placed under a generalissime, appointed by the Senate of Peace, and having no existence in normal times—a further measure of prudence. The author postulates the maintenance of existing treaties concluded since the Treaty of Westphalia; he recognises the right to negotiate fresh treaties.

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(*e*) *Infra*, pp. 24-6, 53. (*f*) *Infra*, pp. 26-7, 54-5. (*g*) *Infra*, pp. 27-8, 55.



But he desires to abolish secret diplomacy. Exchange of territory and treaties between sovereigns are to be concluded with the consent of, and under the guarantee of, the Union, acting by a three-fourths majority (*h*).

Finally, Article V. provides for the modification of agreements. A plurality of votes is sufficient for the regulation of all those matters required to give the greatest possible strength, security, and other advantages to the Grand Alliance; but nothing is to be changed in the five fundamental articles without the unanimous consent of all the Allies (*i*).

In a second section he points out to the sovereigns, first the Emperor, then the King of France, then to the other rulers of Europe, the powerful motives which they have for signing the articles.

The third section comprises the objections to his scheme and the refutation of them.

It is sufficient to read this summary to realise its importance. But before insisting upon that let us observe what is the relation of the *Projet* to previous schemes.

#### *Its relation to previous thought.*

The first work upon the establishment of an everlasting peace is, as is well known, the *Nouveau Cynée* of Eméric Crucé (1623) (*k*). The Abbé de Saint-Pierre did not know of it; it was Leibnitz who pointed it out to him. The *Nouveau Cynée*, moreover, was limited to the advocacy of the institution of a council of arbitration with the disfavour of other princes as its sole sanction. This was also Grotius's conception.

On the other hand the Abbé had read the summary of the *Œconomies royales* of Sully which is given by *Péréfixe*, where the Grand Design of Henry IV. (*l*) is frequently quoted, of which the author was the minister himself and not the king.

The Grand Design is the foundation of the work of the Abbé

(*h*) *Infra*, pp. 28-9, 55-6.

(*i*) *Infra*, pp. 29-30, 56.

(*k*) The best study of this work is that by M. Pierre Louis Lucas, *Un plan de paix et de liberté du commerce au XVII<sup>e</sup> siècle; Le Nouveau Cynée d'Eméric Crucé* (1623), Paris, 1919.

(*l*) A translation of this work forms No. 2 of this Series.

de Saint-Pierre, who had the shrewdness to shelter himself under the popular name of Henry IV., and presented his scheme as a mere elucidation of the work attributed to the king (*m*). The connection between his book and the Grand Design is explicit in the title of the third volume of the *Projet* (1717), as well as in that of the *Abrégé* (1729), as will be noticed in the Bibliography (p. 11, *infra*). But in reality he did better than elucidate the Grand Design. That offered, in opposition to the pretensions of the House of Austria to universal monarchy, a republic of Christian States. The Abbé carried the idea further, developed it, and transformed it by his familiar method of a formal proof like that employed in geometry (which has contributed not a little to make his books unreadable). He supported it with numerous arguments, he formulated the objections which had been made to it, and he tried to refute them. In place of confining himself, like his predecessors, to generalities, he had the merit of drawing up practical regulations for the establishment of a European Diet (*n*). He excelled his model in that his work was more broadly planned, more firmly knit, more precise in detail, than any other which had come before it and than those of Bentham and Kant which were to come after.

Yet there have not, either in the past or in our own days, lacked critics of the *Projet de paix perpétuelle*.

*The criticism and subsequent modification of the doctrine  
contained in the Projet.*

The plan so forcibly set out by the Abbé de Saint-Pierre was too far in advance of the opinion of his time to meet with complete approval from the scholars and princes of Europe to whom his book was addressed. Madame, Duchess of Orleans, wrote, before the book had appeared, that fun was already being made of him. In 1715 Liebnitz confessed to Grimarest his private opinion of the *Projet*, which he thought utopian, in terms still worth attention to-day: "I have seen something of the plan of

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(*m*) See the Introduction by David Ogg to *Texts for Students of International Relations*, (No. 2), p. 9.

(*n*) J. Drouet, *L'Abbé de Saint-Pierre. L'homme et l'œuvre*, p. 123.

M. de Saint-Pierre for the maintenance of an everlasting peace in Europe. It reminds me of a motto on a grave, *pax perpetua*; for the dead fight not; but the living are of another temper, and the most powerful have little respect for courts" (o).

Although, to make his work more readable, the author had condensed it in an *Abrégé*, he met no better encouragement with Cardinal Fleury, nor, doubtless, with Frederick II., the son of the "sergeant-king," founder in the second instance of Prussian militarism. The friend and vassal of this king, Voltaire, who, although Rousseau loved him, hated our author, speaks somewhere of "the impracticable peace of the Abbé de Saint-Pierre."

As to Rousseau himself, Madame Dupin charged him to boil down the *Abrégé* (p); revision by the philosopher of Geneva clarified the confused work of the Norman, but not even that assured success. The doctrines of the Abbé de Saint-Pierre had but slight influence upon Bentham; they were in part the source of Kant's inspiration, and for reasons well known Kant reaped more glory than our author. In the nineteenth and twentieth centuries, literary historians, economists, specialists in international law, have cited his opinions as those of a mind which was original, but above all that of a dreamer and a builder of castles in the air. Those who have studied him more closely criticise either his views on history (Goumy), or his literary form (Sainte-Beuve), or his ingenuousness and presumption (Seroux d'Agincourt), or his singular proposal to perpetuate the frontiers of states as they stood (Drouet). In short, he has had more critics than defenders.

In fact, until a period very near to our own, his very numerous works, and particularly his *Projet*, have found no readers, either in the original or in the collection of excerpts put together by Alletz under the title of *Les rêves d'un homme de bien* (1775), a title which neatly embodies the two dominant traits of his character—his boldness and his beneficence.

(o) The humorous, if grim, comparison of the great scholar has become famous, but it has suffered at the hands of those who have quoted it. In d'Alembert's *Eloge de Saint-Pierre* before the Academy, the motto on a grave becomes the sign of a Dutch merchant, and in Kant, another protagonist of everlasting peace, the sign of an inn.

(p) See Bibliography, p. 12.

*Its present validity.*

Yet, in our own day, the name of the Abbé de Saint-Pierre has recovered a certain lustre under the influence of the progress of international law and of the discussions aroused on the subject of international arbitration, which, as we have seen, he very intelligently made the basis of his system. Wheaton already, among specialists in public international law, has shown himself less prejudiced against him than others. Perhaps the rest will soon recognise what I have always held, that the system of the Abbé de Saint-Pierre is more important, and even is more practicable, than has been supposed.

In fact, as the experience of our time has proved, there is no other method of avoiding war and establishing peace in international affairs than that of transferring to conflicts between States the procedure which has served in the past to appease the conflicts between groups or between individuals within the State. As the historical evolution of law shows, justice must be substituted for war. The system which shall put an end to war must therefore necessarily include as essential elements: (1) an obligatory and permanent system of international arbitration, accepted by each State, and imposed upon the recalcitrant; (2) an international arbitral tribunal; (3) an international armed force which shall secure respect for the decisions of this tribunal.

A system of this kind was conceived by one of the most learned internationalists of the nineteenth century, Pasquale Fiore, the author of *The Sanction of International Law*, and everyone gave him credit for a serious and well-considered scheme. With a little trouble it can be seen that Fiore's plan is that of the Abbé de Saint-Pierre, and yet the forerunner is treated as a rash adventurer, and almost as an impostor.

On the other hand the system is, more or less completely, the basis of the Covenant which forms the prologue to the Treaty of Versailles of June 28, 1919, and which established the League of Nations. This is not the place to argue that the Covenant would have gained greatly by attending more boldly to the lessons of the history of law, by adopting, that is to say, more fully the views of the Abbé de Saint-Pierre, who followed those lessons very closely without being a historian. We should run

the risk in so doing of compromising the success of the publications of the Grotius Society. Yet no one will refuse to concede that between the Covenant and the system of the Abbé de Saint-Pierre there are points in common (disarmament, open diplomacy, respect for the frontiers established by treaty); no one will deny that the "continuous adaptation," as M. Poincaré put it, required to make perfect the provisions of the Covenant is developing in the direction indicated by the dreamer of old; for, to mention that only, on the one hand States are more and more submitting to arbitration, and, on the other, the Locarno Agreements have introduced among nations a new organ of peace—the permanent council of conciliation which the Covenant failed to establish but which was forecast by the Abbé de Saint-Pierre in his third article.

The great difference between the system of the Covenant and that of the *Projet de paix perpétuelle*, that which made everyone believe that General Smuts and President Wilson were creators, when they were merely unconscious imitators, is that they wished to establish by their League of Nations a Grand Alliance of the peoples of the whole world, whereas the Abbé de Saint-Pierre sought only to form a Grand Alliance of the rulers of Europe.

Every honest man with a knowledge of history will concede that a writer in the eighteenth century could think only of an agreement between princes, for the people then scarcely counted. But if the Abbé failed in his efforts, it will be allowed that the fault was not in him but in the hour. The fault of the Abbé was to be too much in advance of his time: the kings in the eighteenth century did not understand their interest when he pointed it out to them; the peoples in the twentieth century, have acquired control of the government, will perhaps understand theirs better, and if the backward, as Kant expressed it, honestly agree to "republicanise themselves," to have recourse, that is to say, in case of a difference with their neighbours, not to arms, but to a court of justice, the world will see, perhaps, to the benefit of all, the peace of the Abbé de Saint-Pierre shine upon it.



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(i) *In the original.*

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*Abrégé du Projet de Paix Perpétuelle, inventé par le roi Henri le Grand, approuvé par la reine Elisabeth, par le roi Jacques, son successeur, par les républiques et par divers autres potentats. Approprié à l'état présent des affaires générales de l'Europe, démontré infiniment avantageux pour tous les hommes nés et à naître en général et en particulier pour tous les souverains et pour les maisons souverains.* Rotterdam, 1729,

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(a) There is a complete bibliography drawn up by the Abbé's latest biographer in Joseph Drouet, *L'abbé de Saint-Pierre. L'homme et l'œuvre*, Paris, 1912, pp. 371-80.

chez Daniel Beman, 12mo. (Volume I. of the *Ouvrages de politique*.) 2nd ed., 1738.

*Projet d'une paix perpétuelle et générale entre toutes les puissances de l'Europe.* [n.p.] 1747, 12mo.

(ii) *In translation.*

*A project for Settling an Everlasting Peace in Europe. First Proposed by Henry IV. of France, and approved of by Queen Elizabeth, and most of the then Princes of Europe, and now discussed at large, and made practicable.* By the Abbot St. Pierre, of the French Academy. London: Printed for J. Watts. [1714]. Vol. I.

B. *The principal biographies.*

G. de Molinari: *L'Abbé de Saint-Pierre, membre exclu de l'Académie française. Sa vie et ses œuvres.* Paris, 1857.

E. Goumy: *Étude sur la vie et les écrits de l'abbé de Saint-Pierre.* Paris, 1859.

J. Drouet: *L'abbé de Saint-Pierre. L'homme et l'œuvre.* Paris, 1912.

C. *The most useful works for further study.*

(i). *Historical.*

J. J. Rousseau: *Extrait du projet de paix perpétuelle de M. l'abbé de Saint-Pierre.* [n.p.] 1761. [Reprinted by C. E. Vaughan: *The Political Writings of Jean Jacques Rousseau.* Cambridge, 1915. Vol. I.]

*A Project for Perpetual Peace.* By J. J. Rousseau, Citizen of Geneva. Translated from the French, with a Preface by the Translator. London: Printed for M. Cooper, in Pater-Noster Row, 1761. 2nd. ed., 1767.

*A Lasting Peace through the Federation of Europe, and the State of War.* By J. J. Rousseau. Translated by C. E. Vaughan. London, 1917.

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*française moderne.* Vol. III. *Dix-huitième siècle.* Paris, 1911.

(ii) *Critical.*

C. A. Sainte-Beuve: *Causeries du Lundi.* Vol. XV.

S. Siegler-Pascal: *Un contemporain égaré au xviii<sup>e</sup> siècle.* Paris, 1900.

C. Seroux d'Agincourt: *Exposé des projets de paix perpétuelle de l'abbé de Saint-Pierre (et de Henri IV.), de Bentham et de Kant.* Paris, 1905.

W. Borner: *Das Weltstaatsprojekt des Abbé de Saint-Pierre. Ein Beitrag zur Geschichte der Weltfriedensidee.* Berlin, 1913.

A. Blanchet: *Un pacifiste sous Louis XV.: La Société des Nations de l'abbé de Saint-Pierre.* Macon, 1917.

(Anonymous): *Les Français à la recherche d'une Société des Nations depuis le roi Henri IV. jusqu'aux combattants de 1914.* Textes choisis et mis en ordre. Paris, 1920.



# ABRIDGMENT OF THE PROJECT FOR EVERLASTING PEACE.

## ADVERTISEMENT TO THE READER.

I have already dealt with this matter in three volumes, the last of which appeared in 1716. I wrote then for a Public little instructed; the subject was quite new; and so it was necessary to treat it at greater length. But as for the last ten years there has been much discussion of this work at large, and in particular among the diplomats, I write now for those who are better informed about the affairs of Europe, and who wish to find in brief and within one volume those parts of the three which are of most importance. I have not failed to add several new considerations, particularly in relation to contemporary conditions, which have changed much in twenty years.

The book falls naturally into two parts. In the first I prove five most important propositions; and in the second I explain difficulties, and reply to the principal objections, while for those which are less important the Reader, if he is curious, may seek the answer to them in the larger work, for this abridgment is intended for those who have already read the other, or who, on account of their superior enlightenment, have no need to read it.

\*       \*       \*       \*       \*       \*       \*

*These are the five propositions I claim to prove.*

### FIRST PROPOSITION.

It is very unwise to assume that treaties, made or to be made, will always be observed, and that there will be for any length of time neither civil wars nor foreign wars, so long as the Sovereigns of Europe shall have failed to sign five fundamental articles of general alliance.



These five articles will be found in the course of the explanation of this proposition.

### SECOND PROPOSITION.

These five articles are sufficient to give perfect surety for the execution of treaties past and future, and to render secure peace both foreign and domestic.

### THIRD PROPOSITION.

The most important business of the Emperor is to secure the signature of these five fundamental articles by the greatest possible number of other Sovereigns.

### FOURTH PROPOSITION.

The most important business of the King of France is to secure the signature of the five fundamental articles by the greatest possible number of Sovereigns.

### FIFTH PROPOSITION.

The most important business of all the other Rulers of Europe is to secure the signature of the fundamental treaty by the greatest possible number of Sovereigns.

### NOTE.

For the rest, I do not claim to guarantee that the Sovereigns will follow their true interest, but only that if they follow it they will make the perpetuity and perfect solidity of peace the end of their most important negotiations. I claim to show that it is not to their true interest to remain as they are, in partnerships and alliances which are partial and temporary, with the alternatives of a peace which is really no more than a truce, or ruinous and very dangerous wars which are really perpetual, and are interrupted only by uncertain truces, and that their true interest is to escape from this pernicious situation that they may enjoy, by means of a lasting fellowship, the immense advantages which a perfectly certain peace would bring to them and to their Royal Houses.

## PART I.

## PROOF OF THE FIVE PROPOSITIONS.

I ask the Reader, as he does in geometry, not to pass from one proposition to another if the proofs of that which he has read do not appear to him sufficient. In this case he should re-read them, lest the failure of conviction should arise from lack of attention upon his part, and not by the fault of the Author. But if after a second reading he still has doubts, let him make a note of them that he may see whether he will not find an explanation in what follows. Those who will not give themselves this trouble will never be certain of their convictions, and consequently will never be in a position to convince others.

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## FIRST PROPOSITION TO BE PROVED.

*It is very unwise to assume that treaties, made or to be made, will always be observed, and that there will be for any length of time no foreign wars, so long as the Sovereigns of Europe shall have failed to sign the five fundamental articles of general alliance which are absolutely necessary to render peace durable.*

The treaties of Munster, the Pyrenees, Aix-la-Chapelle, Nimeguen, Ryswick, Utrecht, Baden, London, Vienna, and Hanover, and other treaties, have regulated the principal differences which existed at that time between the Sovereigns of Europe; but as those who were then the weaker thereby gave up for a time part of their claims for fear of losing much more of their territory by continuing the war, the more part of the weaker Signatories made a mental reservation to make good, at a more favourable opportunity, that is to say in a period of superior

power, the rights, the claims, which they made a show of ceding for all time in these several treaties.

\*                      \*                      \*                      \*                      \*                      \*

This state of mind in the contracting Sovereigns who cede by force has always caused the wisest statesmen to regard such peace as false peace, and as a mere treaty of truce for an indefinite period. For to secure a real peace it would be necessary that the Sovereigns should have taken among themselves definite measures to prevent, by a sufficient and salutary fear, him who thought himself the stronger from resuming arms in order to realise by new victories and conquests his new or his old claims.

Now those who thought to lose by the treaty were unwilling to consent to take measures to render it perfectly durable, since they did not then consider as very profitable compensations for their claims the great advantages which they would have derived from a perfectly unalterable peace. They did not then think that they could ever arrive at a treaty which could render peace certain and perpetual, and so they did not believe the advantages which such a peace ought to secure to be actually real compensations for, and incomparably more valuable and more certain than, their claims old and new.

But as for the last nine or ten years people in Europe have begun to read the great Design of Henry the Great to render peace certain, and as it has been made evident in my larger work that it is not impossible to end without war, either by way of mediation, or by provisional and then definitive award, all the present and future differences of the Princes of Europe through their Plenipotentiaries in permanent congress, people have also begun to recognise as possible and real the great advantages, and in consequence the very desirable compensations, which would accrue to each Sovereign, in place of his claims, by means of *a certain peace, and general and perpetual alliance for the preservation to each of the allies of the territory and all the rights which they actually possess under the latest treaties.*

This opinion has led many statesmen to believe that in future negotiations the Sovereigns should not content themselves with regulating thereby their future differences, but that, to insure the execution of the articles of treaties precedent and subsequent,

for the preservation of that which they actually possess, [and] for the regulation of events which they cannot foresee, they should at last take steps among themselves to prevent any of the allies from resuming war 1°. On the one hand by depriving the more powerful, by means of leagues between a great number of the less powerful, of all hope of making any conquest; and 2°. On the other, by holding out to him who would resume arms the prospect of considerable and inevitable loss.

The wisest, therefore, have in these last few years begun to hope that there may be far more certainty in future negotiations in Europe than they have hoped for hitherto from past negotiations. But there is really nothing to hope for so long as diplomatic conferences separate without agreeing upon such articles as may be sufficient to preserve their union, in spite of future grounds of difference, in the same way as subjects of the same state are always one body, in spite of their lawsuits.

As there are some people who cannot persuade themselves that the allies, who are at present so peaceful, would wish to break the peace in the future, it has seemed to me necessary to show that it is impossible but that war should be rekindled among them, unless they agree upon the five fundamental articles for the regulation of their future disputes without war.

Families which exist within permanent societies, and have the good fortune to have laws and Judges, armed both to regulate their claims and to secure by a salutary fear the mutual execution, whether of the laws of the State, or of their reciprocal agreements, or of the decisions of their Judges, have full security that they shall have their future claims regulated without ever being obliged to take up arms one against another, or to burn, plunder, and destroy one another. They have full security for the execution of their treaties, and that the execution of their agreements shall last as long as the state of which they are part. They have security that, in order to settle their differences, they will never be exposed to the terrible misfortune of war between family and family.

The heads of these families know that he who should take up arms and should use violence against his adversary, instead of having recourse to the Judges appointed by the authority of the State, has no hope of increasing his revenue by force and

violence, and that, on the contrary, he would be severely and inevitably punished if he used violence. So that they may have disputes and lawsuits, but the families have never to fear incomparably greater evils between them, namely, the murder, fire, and pillage caused by resort to arms, which we are spared by recourse to Judges infinitely superior in force to those who have been condemned.

Unfortunately for the Sovereign Heads of some families, they have not *yet* agreed either to form among them a *permanent* society, either for the preservation of their persons, or the preservation of their States, or to set up among themselves a permanent Tribunal, both to secure the execution of their past agreements and to regulate without war their future claims and disputes. They have, up to the present, no real security either that their treaties shall be executed, or that their differences shall be regulated by mediation or award; and, what is of the utmost importance, they have no security that their differences shall be regulated and settled without their being exposed to the fatal misfortunes of war.

The Prince who shall desire the duration of peace, and that each of the allies shall be preserved in his Estates and in all the rights of which he is in actual possession, will make no difficulty in signing the five articles necessary to procure the duration of this peace. But the Sovereign who intends shortly to take up arms in order to dispossess his neighbour will shelter himself under various pretexts from signing them, and then he will render himself suspect; [and] wise and pacific Princes will be justly alarmed, and this alarm will produce in them a still greater disposition to a strict and firm union for their mutual defence, which will have excellent results for them all. They will owe this strict union to a proper distrust of the refusal of their enemy to sign these five articles.

It is certain that there are always perpetual sources of dispute between neighbouring Sovereigns, and that, unless it shall be agreed upon by them that these shall be regulated provisionally by a plurality of the voices of the Sovereigns their Allies not party thereto, these disputes, however small may be the subject thereof, cannot be terminated, save they undergo all the misfortunes and all the hazards of war.



The signature of, or the refusal to sign, these five articles are the true touchstone to try the pacific or ambitious temper of Sovereigns.

1<sup>o</sup>. The bulk of the cessions and promises made under previous treaties have only been made, by those who yielded them in spite of themselves and for fear of losing still more by the continuation of the war than by the treaties. Thus those who yielded have only yielded in appearance and until the first occasion when they shall with impunity be able to recover what they have yielded or some equivalent. Thus, in the present situation of Europe there is no complete security for the duration of peace.

2<sup>o</sup>. There must be no mistake. Such is the temper of him who makes a surrender that there is no surrender which can prevent him from a war which he can conduct with advantage. The allies, it is true, can promise the guarantee of these cessions. But what is to prevent the Allies themselves from falling out, and from forming party alliances against one another? Does not the past teach us to divine the future? And will not, then, the promise of a guarantee become an empty promise, and the security against war a mere chimera? So that, so long as Europe will not adopt a permanent [system of] arbitration, there will be no complete security for the continuation of peace.

3<sup>o</sup>. Besides the cessions which are extorted by force, it is impossible but that there should constantly arise grounds upon which one can complain of another; it may be in the matter of boundaries, or of commerce between their Subjects, or because the treaties have left cases for which they make no provision, or wherein they are not sufficiently clear; and, therefore, without a permanent [system of] arbitration, there is no sufficient security against war, and no complete security for the duration of peace.

4<sup>o</sup>. Do not deaths [and] marriages between Sovereigns give rise from time to time to new rights and new claims to succession? And however far-seeing Sovereigns may be, they cannot make provision for all possible cases, and often they do not want to do so. And when they have made provision, what security is there for execution? Therefore the system of war gives no complete security for the duration of peace.

5<sup>o</sup>. Anyone who should take the trouble to write down the

demands made respectively, one upon the other, by two neighbouring Sovereigns, each year for four or five years, either upon their own account or upon that of their Subjects, and consequently [still more] among a larger number of Sovereigns, would produce a big book. Now, how many mutual demands suffice to kindle war, particularly if one of the disputants is hasty, bold, impatient, ambitious, unjust; if he thinks himself superior in force, in allies; and if he only needs a pretext to begin hostilities? Then, unless Europe changes its constitution by some treaty, there is no complete security for the duration of peace.

6°. Again, war cannot exist between neighbouring Sovereigns without [other] neighbouring Princes being forced to take part for fear of allowing the stronger to become too great and to recover too much, when he may shortly become their enemy. So that here is another source of war. So that, so long as the Princes will not agree upon Judges, there is no complete security for the duration of peace.

7°. Besides ancient claims, there are Sovereigns who still hope for the advantages that arise from conquests. Now, how shall he who thinks himself the stronger be willing to accept the method of mediation or arbitration; he who fears to lose by mediation and by arbitration, and who thinks that he can fail in nothing of his claims by means of arms and violence; he who is persuaded he will gain by extensive conquests far more than his claims, under the pretext of indemnifying himself for the cost of a just war? So that, so long as there shall be ambitious powers, [and] so long as there shall be no powerful Judges interested to repress their injustice, there is no security for the duration of tranquillity and peace.

8°. Usually treaties are merely collections of mutual promises. But we have, so far, no permanent society sufficiently powerful and sufficiently interested in the execution of these promises. Each of the parties can with impunity exempt himself from the observance of them, according as he finds it to his interest to observe them or not to observe them. So that, without a general alliance, there is no complete security for the duration of peace.

9°. Sovereigns do not lack pretexts to absolve themselves from

keeping their promises. Sometimes they say that, the Sovereign whom they wish to attack having begun to contravene the treaties, they consider themselves entitled to take reprisals. Sometimes there are matters of interpretation in the terms of the treaties where the interested party finds obscurity when disinterested persons see none. In short, pretexts good or bad are never wanting to the stronger that they may take advantage of their superiority. So that, in the present European system, there is no complete security for the duration of peace.

10°. Matters of complaint and mutual claims will arise between the allies, and they have no other way but war of determining them. So that any of the allies can separate himself with impunity from the alliance, in the hope that resort to arms will be very advantageous to him. And as there are Sovereigns who derive commercial profit from the declarations of war by others, and who wish to see their enemies weakened by wars, is it not probable that they will continue with all their power to rekindle them? So that, unless the signature of the five articles is begun, there is no complete security for the duration of peace.

11°. As the causes of war in the past continue to subsist without any new and sufficient preventive, it would be very unwise to think that they will not produce similar effects. The wood is dry, the fire is near, the wind blows the fire upon the wood, why should not the wood kindle? So that, so long as the Sovereigns do not sign certain new articles, there is no security for the duration of peace.

12°. Princes may receive personal injuries from their neighbours; they are, like other men, susceptible of anger and the desire for revenge. Now, who can prevent them from allying themselves with other discontented Princes to resume war? Have we not seen numbers of notable examples in every century? Another inexhaustible source of hatred and war! So that hitherto there has been no sufficient security for the duration of peace.

But if it is possible to make him who would resume war realise, in the first place, that there is a means of rendering peace in Europe certain and perpetual; in the second place, that a certain and perpetual peace would save him great expense; and, in the third place, that it would procure him advantages

greater and more real than the realisation of his claims by war, then, far from thinking of war, he will think of adopting means to render peace lasting.

These means consist in the signature of the fundamental treaty comprised in five articles.

I have had two ends in view in drawing up the articles which should compose this invaluable treaty. First, to draw them so that they shall contain everything which is absolutely necessary for the formation of an alliance, of a permanent and lasting society; and secondly, that they shall contain nothing but that which is absolutely necessary. It is for that reason that I have reduced them to so small a number, for the fewer there are the less difficult is it to correct them and to agree upon them. And these five articles, with their explanations, will give a general idea of this European Diet which will secure the peoples of Europe from war, as the Germanic Diet has actually secured the Peoples of Germany for so many centuries.

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## STATEMENT OF THE ARTICLES OF THE FUNDAMENTAL TREATY TO RENDER THE PEACE OF EUROPE AS LASTING AS POSSIBLE.

### FIRST ARTICLE.

There shall be henceforth between the Sovereigns of Europe who shall have signed the five following articles a perpetual alliance.

1°. Mutually for all time to procure to themselves complete security from the great misfortunes of foreign war.

2°. Mutually to procure to themselves for all time complete security from the great misfortunes of civil war.

3°. Mutually to procure to themselves for all time complete security for the preservation of their States.

4°. Mutually to procure to themselves in times of weakness a much greater security for the preservation to themselves, and to their families, of the possession of sovereignty, according to the rule established in the Nation.

5°. Mutually to procure to themselves a very considerable diminution of their military expenses, while increasing their security.

6°. Mutually to procure to themselves a very considerable increase of annual profit, which will accrue from the continuity and security of commerce.

7°. Mutually to procure to themselves, with much greater ease and in much shorter time, the internal improvement or melioration of their States by the *perfecting* of the laws [and] regulations, and by the great utility of many excellent foundations.

8°. Mutually to procure to themselves complete security for the settlement of their future differences more promptly, and without risk or expense.

9°. Mutually to procure to themselves complete security for the prompt and exact execution of their treaties made or to be made.

To facilitate the formation of this alliance they agree to take for a fundamental condition *actual possession and the execution of the latest treaties*, and they are mutually bound to guarantee, one to another, that each Sovereign who shall have signed this fundamental treaty shall be preserved for all time, him and his house, in all the territory and in all the rights which he possesses at present.

They agree that the treaties, since and including the treaty of Munster, shall be executed according to their form and tenor.

And, finally, to render the grand alliance the more sure by making it the more numerous and more powerful, the grand allies agree that all Christian Sovereigns shall be invited to enter it by the signature of this fundamental treaty.

#### *Explanation of the First Article.*

1°. In this article are to be seen the nine principal effects which will certainly be produced by the general and permanent alliance, and [which are] favourable to all Christian Sovereigns. And it is these future results which are the present motives of the proposed treaty, and the certain and infinitely advantageous equivalents offered to the Sovereigns in return for their smaller,



very costly, very doubtful, and for the more part chimerical claims.

2º. Besides the motives adapted to engage the Sovereigns to form the grand alliance, there is also in these articles as the basis of the treaty the agreement to *actual possession and the execution of the latest treaties which establish rights between Sovereign and Sovereign*.

3º. It is clear that *actual possession* and the execution of the latest treaties, being established as a fixed point, effects a mutual renunciation on the part of those deprived either of actual possession or of the right which the latest treaties may give, since these claims tend to diminish in some degree the territory or the rights of which each Sovereign of the grand alliance is in *actual possession*. But this renunciation is more than compensated by the nine equivalents, that is to say, by the nine great advantages which would result both from the impossibility of war and from the perpetual duration of commerce and of peace. These advantages are explained at greater length in the course of the proof of the following propositions.

4º. There are also apparent in this first article the means to render the union certain, which is *to increase as much as possible the number of Sovereigns party to the grand alliance*. First, in order that it may be much more powerful than any one Sovereign, and even than several Sovereigns, who may wish to obstruct it in its pacific work; and, in the second place, in order that the number of Allies may be sufficient to establish a permanent [system of] arbitration or Tribunal of about twenty parties [agreed] to terminate their future differences without war.

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#### SECOND FUNDAMENTAL ARTICLE.

Each Ally shall contribute, in proportion to the actual revenues and charges of his state, to the security and to the common expenses of the grand alliance.

This contribution shall be regulated monthly by the Plenipotentiaries of the grand allies in the place of their permanent assembly, provisionally by a plurality of voices, definitively by three-quarters of the votes.

*Explanation.*

1°. This second article is the second means of rendering the alliance and peace as certain as it is possible for them to be; for the daily contribution of the members, proportional and perpetual, is the fit daily and perpetual nourishment of the body politic of Europe.

2°. This contribution ought to be proportioned to the revenues of the Subjects of each Nation; and as some Nations are more heavily burdened with public debt than others, the Assessors should pay attention to that. In Germany this contribution of the Allies of the Germanic body is called a *Roman Month*. The contribution of the grand Allies of the European body would be called the *European Month*, because this contribution would be paid monthly and in advance.

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## THIRD FUNDAMENTAL ARTICLE.

The grand Allies have renounced, and renounce for ever, for themselves and for their successors, resort to arms in order to terminate their differences present and future, and agree henceforth always to adopt the method of conciliation by mediation of the rest of the grand Allies in the place of general assembly, or, in case this mediation should not be successful, they agree to abide by the judgment which shall be rendered by the Plenipotentiaries of the other Allies permanently assembled, provisionally by a plurality of voices, definitively by three-quarters of the votes, five years after the provisional award.

*Explanation.*

1°. This third article contains a third means absolutely necessary to render the grand alliance lasting. And this means is the steady preference of the salutary method, either of mediation or of arbitration, which keeps everything intact, which preserves everything, to the pernicious method of war, which oversets everything, which destroys everything.

2°. It is easy to understand that by means of the fixed and

immutable principle of *actual possession and execution of the latest treaties* future differences can never be anything but unimportant, since all possession, if it is in the least important, is always evident and effective, or determined in the latest treaties.

3°. Differences over some little frontier Villages, about some difficulty of Merchants, are of no great importance; and as the Sovereigns are all interested to regulate them justly, each will have full security that the Judges will not depart, or will only very slightly depart, from justice, even in their provisional awards. And this security ought to afford peace of mind to every reasonable person, since there is nothing important left to regulate, and that which remains will never be regulated in a way far removed from justice. The unsuccessful litigant has even the hope of a favourable award five years later, when final judgment is delivered.

4°. There will be nothing important in future to regulate between Sovereigns, except future or imminent successions to Sovereignities. But the different cases under this head will be discussed and regulated by the Allies long before the question matures: 1°. in regard to the general interest of society; 2°. in regard to the interest of the Nation; and 3°. in regard to the interest of, and justice to, the families who are claimants.

5°. The Allies then will have as the basis of their regulations the maxim *Salus populi suprema lex esto*. The preservation of the people and of the State is the supreme law; their first principle shall be the security and tranquillity of the grand alliance.

Now this security requires 1°. that the number party to the deliberations shall not be diminished; and 2°. that the territory of the five most powerful Sovereigns shall not be increased.

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#### FOURTH FUNDAMENTAL ARTICLE.

If any one among the Allies refuse to execute the judgments or the regulations of the grand alliance, negotiate treaties contrary thereto, [or] make preparations for war, the grand alliance will arm, and will proceed against him until he shall execute

the said judgments or rules, or give security to make good the harm caused by his hostilities, and to repay the cost of the war according to the estimate of the Commissioners of the grand alliance.

*Explanation.*

1°. This fourth article contains a fourth means which is absolutely necessary to render the grand alliance indivisible, namely, a punishment, sufficient and inevitable, for him among the successors of the Allies who, without considering all the great advantages which he actually enjoys by the regulation of Europe, shall be so foolish as to seek to destroy it. For wise Princes who know their own true interests have no need of threats to keep [them] in strict union with one another, but the foolish Prince who has no clear perception of his own interest needs a wholesome fear to guide him like a child to his true interest, namely, the permanence of the association.

2°. The bonds of all associations can be reduced to two. The first, and the weakest, is hope, or the desire to advance one's well-being. The second, and the stronger, is the fear of seeing one's well-being diminished and one's misfortunes increased. Often the advantages secured by society, although very great, are overlooked for lack of attention and experience by young men, by unthinking people, and by those who are influenced by passing prejudices, so that their sympathies are not sufficiently enlisted in the preservation of society. Like children, they need the prospect of punishment, certain, near, and sufficient, awaiting anyone who shall violate the fundamental laws.

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FIFTH FUNDAMENTAL ARTICLE.

The Allies agree that the Plenipotentiaries shall regulate finally, by a plurality of voices in their permanent assembly, all articles which may be necessary and important to procure to the grand alliance more coherence, more security, and all other possible advantages. Provided that nothing in these five fundamental articles is ever changed without the unanimous consent of all the Allies.

*Explanation.*

1<sup>o</sup>. It is clear that there are many more matters which it will be important to regulate, both for the security and the duration of the grand alliance, and for the common good of the Allies; but that can easily be done in the permanent assembly by Plenipotentiaries, who will have their instructions.

It will be necessary, for example, to determine who shall be the Sovereigns who shall be entitled to cast a whole vote, and who shall be the Sovereigns who shall only be entitled to a share in a vote cast by the body of those so entitled, and who shall have, each in their turn during the year, some for more and some for fewer days, according to the revenues of their States and their contributions to the common expenses, the right to act as Plenipotentiary.

It is also necessary to choose the City of peace or of assembly, at least provisionally.

It will be proper to prohibit the union of Sovereignities in one head, as it has been prohibited in the case of the Crowns of France and Spain, and to make an agreement that two Sovereignities which each cast a full vote shall never be possessed by the same Sovereign, and that succession to a Sovereignty can never be awarded, save to a Sovereign who is entitled to part of a vote only.

But there is one observation of the utmost importance which must be made, and that is that decisions, reached by a plurality provisionally and by three-quarters of the votes finally, shall never be regarded as insurmountable obstacles. This provision will remove innumerable difficulties, which the reader can imagine for himself, from the way of securing the pact.

2<sup>o</sup>. It is desirable that, in respect of the articles of the fundamental treaty, each Ally shall be sure that no change shall ever be made except with his consent, and that thus all the territory actually possessed by him shall always be preserved in its entirety to him and to his posterity by an all-powerful and immortal society.

3<sup>o</sup>. It is important, in order to facilitate the initiation of the agreement, to make the number of articles as small as possible; for the first step in every agreement is always that which is



the most difficult, and because, once this first step in an advantageous agreement has been taken, it is obviously to the interest of the parties to agree provisionally by a plurality of voices upon all that may be necessary to procure all possible advantages to the association.

Such are the five fundamental articles necessary to render peace lasting and perpetual. Now it is clear from the foregoing arguments that, so long as the Sovereigns in considerable number do not sign these or other equivalent articles, it will always be very unwise to assume that for long there will be neither civil nor foreign war in Europe. *And this is the first proposition I set out to prove.*

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## SECOND PROPOSITION TO BE PROVED.

THESE FIVE ARTICLES ARE SUFFICIENT TO GIVE FULL SECURITY FOR THE EXECUTION OF TREATIES, MADE OR TO BE MADE, AND TO PRODUCE A LASTING PEACE.

1°. It is clear that if several of the powers of Europe were to sign the five articles of the project of a fundamental treaty, and were jointly to solicit signature in the other Courts of Europe, they would be signed by all, or almost all, within five or six months, and it would be certain that he who refused to sign would soon give his consent for fear of being treated as a declared enemy by the general alliance.

2°. The general alliance being once formed upon the understanding that no Ally should ever take up arms against another under pain of being treated as the common enemy of the grand alliance, none of them would ever try to involve himself uselessly in heavy military expenditure against all the others.

3°. The matters of dispute between Sovereign and Sovereign will of necessity be of very little importance, such as two or three Villages more or less, and they will certainly be either settled by the mediation of the alliance or determined without war by the decision of the Allies.

4°. None of the Allies will any longer be in the position to

consider himself the stronger when he knows that he will have all the others for his enemies. So that the flattering temptation of great conquests will no longer tempt him to separate himself from the grand alliance, since it will be clear to him that no conquests are possible.

5°. Perhaps there may be a few slight disturbances within the States of the Allies, for there are fools everywhere. But there can never be civil war, for there is no civil war to be feared without a leader. And who would be leaders who must be ready to lose their goods and their lives without any hope of success? And how could they have the least hope of success, knowing that they must meet the forces of the whole of Europe?

6°. Those who have made certain cessions or renunciations by treaty unwillingly, having no longer any hope of succeeding by force, will never try to indemnify themselves by taking up arms. So that they will happily be obliged to accept, as equivalents and an advantageous indemnity, the great reduction of their military expenditure, the increase of their revenue arising from domestic and foreign commerce, and an infinity of other great advantages which will ensue from numberless useful regulations and foundations to further the Arts and Sciences, to which effect can scarcely be given save during a certain and lasting peace.

7°. Cases unforeseen or unprovided for, the import of certain articles, quarrels between the Subjects of different Nations, may give rise to disputes between two confederates of the body politic of Europe, as may happen between two Citizens of the same state. But they will be disputes of little importance at bottom in comparison with what would have been at stake in the system of almost perpetual war, in which the parties stand to suffer the expense and the ruin of war, and lose their whole state. And disputes in reality of little importance, such as those for a Village more or less, will not cause war, for there will always be the method of arbitration open for the determination of these petty differences, and because resort to war will henceforth become absolutely impossible by the establishment of an European [system of] arbitration, formed by the signature of the five fundamental articles.

8°. The establishment of frontier Tribunals to regulate the

differences between subjects of two Sovereigns will greatly reduce the number of mutual complaints between these Sovereigns.

9°. It is true that treaties are nothing but collections of mutual promises, and that where there is no permanent society sufficiently powerful and sufficiently interested to secure their fulfilment it is never possible to be sure that they will be fulfilled, since he who has given his word may hope to break it with impunity. But in the case of a permanent society established among the Sovereigns for the execution of treaties, and for the mutual preservation of the entire territory of which each is in *actual possession*, there is no fear that mutual promises will not be fulfilled. So that each will be in the happy position of being obliged to do justice to his neighbour, and of living for his part without fear of injustice, violence, or injury from his neighbours.

10°. So long as the Allies can secede from the alliance with impunity it cannot be regarded as a permanent society, but from this no confederate can hope to secede with impunity, or without being regarded and treated as the common enemy of all the Allies. So that not only will the great advantages of a permanent society restrain the wise and convinced Sovereigns, but the wholesome fear of punishment, adequate and inevitable, will always restrain even those Sovereigns who are exceedingly unwise and are drunk with foolish ambition.

11°. As the Allies will be authorised to provide by a plurality of votes all means proper for the security, tranquillity, and other common advantages of the general alliance, it is impossible but that, advised as they will be by the first minds in Europe, they should discover in a few years the greater part of the other measures required; and as they will be very powerful, they will easily be able to put them into execution.

It may, therefore, be concluded that the new securities which will be devised, taken with those already proposed as fundamental articles, will be sufficient to render the union indissoluble, and in consequence to render all war impossible, which is the second proposition which was to be proved.

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## THIRD PROPOSITION TO BE PROVED.

THE MOST IMPORTANT BUSINESS FOR THE EMPEROR IS TO SECURE  
THE SIGNATURE OF THE FIVE FUNDAMENTAL ARTICLES BY THE  
GREATEST POSSIBLE NUMBER OF SOVEREIGNS.

\*            \*            \*            \*            \*            \*

Upon the incontrovertible principle that an enterprise is the most glorious as, upon the one hand, it appears difficult, and, upon the other, is the more useful to a greater number of families within the nation and to a greater number of nations, is it not obvious that no undertaking can enter into comparison with the establishment of a system of peaceful arbitration and of an indissoluble society of Christian Sovereigns for the mutual protection in their *actual possessions* of themselves and their posterity, to assure the fulfilment of their mutual promises, to render war henceforth impossible, and to make commerce between Christian Nations perfectly secure, free, and constant?

\*            \*            \*            \*            \*            \*

Sovereign Houses have two kinds of enemies to fear, ambitious and discontented conspirators within, and ambitious and warlike Princes without. Now, if the Emperor plans new conquests, he will raise up many foreign enemies, who will have good reason to unite for their mutual defence in view of his aggrandisement; so that it may be thought improbable that he will aggrandise himself in face of the league. . . .

[But] suppose that the Emperor should make some further conquests. . . . I maintain that his conquests could not prevent his House from meeting with various periods of weakness, such as when there is a minority, or the ruler is old, or unequal to his duties. Now in these cases parties will form, and there will be civil war in his States; the conjunction of circumstances will favour attacks from within and without against his House. And it is to be remembered that, in the event of violence at home, it is of no use that the sovereign House rule over a State much more powerful than neighbouring States, since the conspirators and rebels will employ this very superiority of power

to instal themselves the sooner, and with the greater superiority of power and the more security, in spite of feeble neighbours.

What will be the principal effect of a perpetual alliance for the mutual preservation of the Allied Houses? It would be to destroy by force all attacks, or to bring to naught, by the fear that it inspires, every attempt at conspiracy, . . . since it would be conspiracy against Europe. . . .

. . . Will anyone ever be tempted to conspire against his Sovereign in order that he may put a Crown upon his head, if he sees that there are ten powerful neighbouring Sovereigns bound together for mutual defence and the protection of the poor remnants of a Royal fugitive family from conspiracy, and intimately interested to secure the punishment of the conspirator?

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#### FOURTH PROPOSITION TO BE PROVED.

THE MOST IMPORTANT BUSINESS OF THE KING OF FRANCE IS TO  
SECURE THE SIGNATURE OF THE FUNDAMENTAL TREATY BY  
THE GREATEST POSSIBLE NUMBER OF SOVEREIGNS.

\* \* \* \* \*

. . . The State which had [troops to the tune of] twelve million at its call and [to the tune of] twelve million embodied would, after signature, be infinitely more secure than it would be with [troops to the tune of] forty-eight millions without signature.

So that by signature the Sovereign, upon the one hand, increases infinitely the security of his person and that of his State, and, on the other, gains twenty-four million of revenue. . . .

It is assumed that his neighbours disarm at the same time and in the same proportion as he does, and that the Commissioners of the European confederation, by reviewing the troops of each Prince twice a year, will, for the security of all the allies, prevent all new armaments in the interior of Europe, unless by order of the general alliance.

\* \* \* \* \*



## FIFTH PROPOSITION TO BE PROVED.

THE MOST IMPORTANT BUSINESS OF THE OTHER SOVEREIGNS OF EUROPE IS TO SECURE THE SIGNATURE OF THE FIVE FUNDAMENTAL ARTICLES BY THE GREATEST NUMBER OF SOVEREIGNS THEY CAN.

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It is important to the King of England that seditious persons in Parliament should not one day reduce the sovereign rights which he enjoys. It is similarly to the interest of the English Nation that the authority of Parliament and the present constitution of government should always be preserved in the state in which it is now, in spite of the measures of too tyrannical Ministers, and impatient and ill-advised Princes. Now nothing is easier than to provide this security both for the King and for the English Nation, since a special article can be drawn to preserve to the King and the Nation the privileges they possess and enjoy at present. For it is the *actual possession* of rights of which the European confederation is guarantor, not only between Sovereign and Sovereign, but also between certain semi-republican peoples and their Sovereigns. Each holds to what he *actually* possesses, and renounces his claims in consideration of the equivalent advantages which ensue from universal and lasting tranquillity.

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## PART II.

*OBJECTIONS AND ANSWERS.*

## ADVERTISEMENT TO THE READER.

Although I have tried, as well as I was able, to make the matter so clear that I could forestall objections, I have not expected that no difficulties would be raised. There are always difficulties. This arises from two sources, which will never be exhausted. One is that the author, familiar with his own ideas, sees clearly what others without that familiarity only see darkly. He cannot put himself with sufficient exactness in the position of his readers to see where in his work there is lack of clarity in the principles or lack of connection between the principles and the consequences, although this is essential if he is to persuade those who are judges of argument.

The other source is in the reader, who, unaccustomed to argumentative works where one part depends upon another, does not pay that attention which he must in order to remember the proposition and proofs which have gone before. So that his mind fails, by defect of memory, to hold at once so great a number of ideas which mutually sustain and confirm one another, so that he cannot see how the propositions are linked together, nor in consequence feel the force of this connection, although this is essential if he is to be persuaded and convinced. Thus it is not surprising if at the first reading he cannot for himself solve the difficulties which check him.

It happens also to some readers that, for lack of familiarity with works where it is necessary to compare different parts, each of which has a theme of a different kind, they have not good enough memories to keep them all at the same time in mind. Whence it happens that they are at a loss to make an exact comparison, and that they are, so to speak, under the necessity of deciding upon the impression made by the last

arguments they can remember, without regard for those which they have forgotten.

This trouble gives rise to another; it is that the difficulty being due merely to forgetfulness, on the part of the reader, of the proofs and reasons which have been fully set out, the author finds that he must repeat many things which he has already said. But if by my replies those who have been unable to remove the difficulties for themselves are satisfied, they will not be offended by a repetition of which they stood in need, and which they did not perceive to be a repetition until they began to understand that which they had not yet understood. As to those upon whom these objections make no impression, they have only to turn over the answers without reading them.

\* \* \* \* \*

#### SECOND OBJECTION.

I am quite aware that, as the Sovereigns will agree as a fundamental article that each confederate shall always be preserved, him and his house, in all the territory and in all the rights of which he is in actual possession, and that promises made under the last treaties shall be fulfilled, the Emperor can never have any important dispute with any of his neighbours. But by signing the treaty he loses the advantage he enjoys of deciding any dispute by superiority of force, instead of which it will only be possible to decide it by a majority of the votes of the Sovereigns, his peers. He recognises a superiority, a Tribunal, he would not have recognised; he submits to a dependence to which he has not submitted before.

#### *Answer.*

This dependence to which the Sovereign submits by virtue of a general union amounts merely to preference for dependence upon the suffrages of his allies to dependence upon the fortune of arms in future disputes, and we shall see that preference for the method of arbitration rather than the method of war greatly reduces his dependence in all other respects.

1<sup>o</sup>. If this Sovereign recognises other Sovereigns as his Judges and superiors in disputes with his neighbours, they recognise

him for their Judge and their superior in theirs; so that he only surrenders upon the one hand what he acquires upon the other. . . . So that in this respect his account is square under the system of lasting peace between Christian Nations.

2<sup>o</sup>. He can have no disputes, except they are with his neighbours or with Subjects in rebellion against his commands. Now if he choose the method of arbitration, he will be assisted against rebels by the forces of his confederates. So that by this means he will have complete security that they will always be reduced to obedience. And is not this one great fear, that is to say one great dependence, the less?

3<sup>o</sup>. Any dependence, any mistrust of the arbiters, which the Emperor may entertain, will be small in proportion as that which is deferred to their judgment is of small importance. Now we have seen that there will never be in question any but things of small importance, of which the actual possession is not clear.

So that he will suffer no dependence, however inconsiderable. Instead of being, like every Sovereign or anyone else, in a state of dependence in respect to him whom he fears or the league which he has reason to fear, it will be found that the Emperor, in choosing the method of arbitration, as he has no longer any fear, for himself or his posterity, of any league, invasion, rebellion, or conspiracy, of any reduction of authority or rights, or of any great injury, gains twenty or even a hundredfold in respect of dependence, since that which he fears under a permanent system of arbitration and lasting peace will be twenty, a hundred, times less fearful to him than that which he and his successors have to dread under the system under which we live of almost constant war, only interrupted by truces which are short and of uncertain duration.

4<sup>o</sup>. If a Sovereign fears an unjust award on the part of the grand alliance, the injustice of the award is not more to be feared than the loss of the thing itself.

5<sup>o</sup>. If he has every year one, two, or three little matters for settlement, this dependence upon the arbiters which we are discussing becomes so slight as to be almost negligible.

6<sup>o</sup>. Not only does dependence upon the Judges decrease in proportion to the small number of suits, and in proportion to

the slight and small importance of the subject of the suit, but it decreases still further in proportion as the Judges are enlightened, fair, and fully concerned to deliver judgment with scrupulous justice. Now, in a European system of arbitration, what are likely to be the subjects of litigation? They will be, perhaps, a few personal quarrels, some trifle about frontiers, or commerce. And will it not be entirely to the interest of those who are judges to give just judgments upon these matters? When they may be, both they and their children, both sinners and sinned against; when they [also] have both frontiers and commerce to control. So that it may be said that they will all be the more anxious not to do wrong to one of the parties by deviation from mercy and justice, as they may thereby do an equal or perhaps greater wrong to themselves.

7°. Are not those arbiters the least to be feared and most to be desired, by a party to a suit, to whom he is himself an arbiter in other cases?

8°. These judgments are the less to be dreaded in that they will afford precedents in similar cases. Now it often happens that he who thinks he has lost something by arbitral award will in effect have gained, in that the decision protects him from similar claims which his neighbours might have had against him and against his successors.

9°. The Sovereign who sees the instruction of the Plenipotentiaries, and who counts the votes which will go against him, can easily avoid the shame of being condemned by adopting the method of mediation or compromise, and it is an advantage to him whose claims are unjust to be able to avoid this disgrace.

10°. I shall show that the other dependencies which are avoided by virtue of this one are much more considerable. For, in short, there are only two ways of deciding things, either by a permanent system of arbitration in a reign of lasting peace, or by the uncertain chance of a system of continual war interrupted by truces.

A Sovereign who takes up arms is not sure of being quit of them by renouncing his claim if he is the claimant, or by giving up that which is demanded of him if he is on his defence. In war he risks his whole State, since if he is completely beaten and dispossessed of everything he loses all, both that which



was in issue and a thousand times more than that which was the subject of dispute.

Now if the degree of dependence is always in proportion to the importance of the matter at issue, it is clear that dependence upon the fortune of arms in a system of war is incomparably greater than that wherein the Sovereign puts himself when he submits himself to mediators, to just arbiters, since by [the system of] European arbitration he never risks more than is in issue, and that is very little; instead of which by a system of war each of the belligerents runs the risk not only of losing the thing at issue, as he does in arbitration, but also his whole fortune, even when he is only fighting for a small matter.

11°. The cost of procuring a decision by means of force under a system of war is immense, ruinous, and a dead loss to both parties when neither has prevailed over the other and they are constrained by mutual exhaustion to make peace, or rather a truce. The expenses often amount to thirty times more than the worth of the main object. While under a permanent system of arbitration no one ever takes up arms, and the judgment of the arbiters costs nothing to the parties. . . .

12°. In the present state of the affairs of Europe there is so far from being any hope for anyone who enjoys great success being repaid the costs of his conquests, that if his neighbours see that he is making considerable conquests they will at once declare themselves against him, either to prevent him from making them, or to make him restore those which he has made.

13°. If, on the one hand, under a system of continual war mingled with truces the Sovereign can always promise himself fortunate successes and the repayment of his expenses, on the other, may he not die? Is he sure that his House will never suffer a minority, or that the sovereign House over which he has enjoyed superiority will never in the centuries to come secure in its turn superiority over his during a regency. And then supposing that this neighbouring House take from his descendants what he has taken from their ancestors, is it not clear that all the expenses and ravages of war, as much upon the one part as the other, and of a war which will have lasted several centuries, will be a dead loss for both Houses?

Is not the cost of past wars for two hundred years between the

House of France and the House of Austria at this moment a dead loss to both these Houses? And at the same time calculate to what this expense and these ravages amount, and you will see that it is worth four times more than the whole Realm of France, and that if France had all the money which war has cost her during the last two hundred years she would be worth four times more than she is worth at present.

14<sup>o</sup> This Sovereign regards his claims either as most just or as unjust. If he regards them as unjust, is there anything more hateful than to wish to do to others that which he would not like them to do to him?

If he considers them to be just, where is the wisdom of preferring that the matter should be settled by the fortune of war, which is always fickle, that is to say by chance, rather than by the judgment of arbiters enlightened and rendered just by their own interests? Is there then any comparison for a wise and judicious Prince between these two kinds of dependencies?

\*           \*           \*           \*           \*           \*           \*

16<sup>o</sup>. . . . In short, though the dependence in which the Emperor places himself under [a system of] permanent and mutual arbitration were not in itself very slight, though the superiority which he concedes to other Sovereigns over him were not merely equal to that which he acquired over them, though this dependence to which he submits by a system of arbitration were not infinitely less than all the tiresome dependencies from which it secures him for ever, both him and his heirs, though all these things were out of the reckoning on this side, if on the other, under a system of lasting peace, he finds advantages infinitely above those which he actually experiences under a system of war, is it not clear that the dread of this dependence upon mutual arbitration ought not to deter him? Now we have shown above the great extent of his advantages.

17<sup>o</sup>. The wisest and most powerful Sovereign must fear not only for times of weakness for his posterity. Why should he not fear these periods of weakness for himself, if, on account of old age, or illness, he should become entirely unable to work? Now he preserves himself from all ill fortune by the establishment of [a system of] arbitration, permanent and mutual between peers.

He prepares defenders for himself; constant, immortal, all-powerful protectors for himself and his posterity. And the more he increases his authority, his independence, his tranquillity, the less he will have to fear.

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### THIRD OBJECTION.

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. . . This fine scheme must be looked upon rather as the wish of a good citizen than as the plan of a sober statesman: *Votum non consilium*. It is a Republic of Plato, and not a practical plan. It will not suit the corrupt understandings of the age: *Non sumus in Republica Platonis, sed in facie Romuli*.

. . . Sovereigns are men, and men are not wise enough, nor sufficiently convinced, to govern themselves by their greatest interests. . . . It is prejudice, to the shame of reason, which controls reasonable beings. . . .

### Answer.

\* \* \* \* \*

Let us get back from general principles to plain and definite matters. What is the problem? It has just been suggested to the King of France, the King of England, the Dutch and the other pacific Sovereigns, who have acceded to the Treaty of Hanover, that they shall subscribe to the fundamental treaty in order to render the alliance lasting.

Is it not true that there is not one of them who does not fear the break-up of their alliance, and that he will be abandoned by his allies to the resentment of a powerful enemy? Now in these circumstances is it to be believed that they will refuse the only means for rendering their alliance both indissoluble and incomparably stronger? Therefore they will sign this fundamental treaty. . . .

\* \* \* \* \*

There is therefore no question of those schemes, impossible in practice, which are commonly associated with the Republic of Plato. . . .

## FOURTH OBJECTION.

Is it to the interest of the King of Spain to agree to have no more voice in the deliberations of the union than the King of Portugal or the King of Denmark?

*Answer.*

1. Why in the deliberations of the Senate in Rome, why in the deliberations of the Senators in Venice, Genoa, and other Republics ancient and modern, has a greater voice never been given to the richer, to the more powerful, than there has to the poorest Senator? It is because the poorest has as much interest, in proportion to his fortune, that the State should take the best course, as the richest can have. Now as they are both equally interested in the common good, and as they are to be taken as equal in enlightenment, is it not natural, is it not reasonable, that they should have an equal voice in things?

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## SEVENTH OBJECTION.

Experience teaches us that the larger an alliance is the less ardour there is for the common interests of the alliance, and the easier it is to divide the allies, and the more difficult to keep them together.

It has also been noticed that when the alliance is large, if it is necessary that all the allies should act in concert in order that their undertakings may succeed, it is more difficult to secure this, since there is always some one who tries to contribute less or to risk less. And as the ally who deserts his alliance has hitherto only had to bear feeble reproaches, and has not had to fear any punishment for the breach of treaty, he will allow the most eager and zealous to act for the good of the confederation, and will think only of seeking for pretexts and excuses for contributing nothing. And from his example another ally will play the same game another year, and the others will be disgusted in the same way. And so the bulk of plans for large confederations have vanished in smoke.

*Answer.*

\* \* \* \* \*

It is true that men who are in association do not always see that it is to their interest to fulfil punctually the rules of the association. But with a wholesome fear of a *sufficient and inevitable punishment* a society can always constrain them, in spite of themselves, to act in their own true interest.

\* \* \* \* \*

ELEVENTH OBJECTION.

The King of Spain will never be willing to sign these five fundamental articles unless by a separate treaty, dated on the preceding day, the King of England cedes to him Gibraltar and Port Mahon, or at least promises to surrender them to him within a specified time and under the guarantee of the grand alliance. On the other hand the King of England will never be willing to surrender them to Spain because these places are a great support to English commerce in the Mediterranean, and Spain would have to give considerable compensation to England for that. And Spain will never be willing to give substantial compensation.

*Answer.*

It is clear that when almost all the Powers of Europe shall have signed the five fundamental articles, and these shall have been seen in operation throughout Europe for two or three years, the English will then have, by virtue of this signature and this general alliance, security for their commerce incomparably greater than they at present enjoy by the possession of Gibraltar and Port Mahon.

Then these two places will be, so far as commerce is concerned, entirely useless, and will also be a source of expense to them in garrisons and the upkeep of the fortifications. Moreover these same Ports will under the fundamental Treaty always be open to their ships, as the Ports of England will always be open to Spanish ships and to the ships of all the allies.



So that the compensation which England will be able to claim from Spain will not be considered as very large by the confederates who mediate.

\*                      \*                      \*                      \*                      \*                      \*

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### TWELFTH OBJECTION.

I foresee an obstacle which will greatly delay the signature of the five fundamental articles. It is the mutual claims which have to be settled between the Sovereigns. . . .

\*                      \*                      \*                      \*                      \*                      \*

### *Answer.*

If you admit that the Sovereigns in congress have sense enough to see that it is possible to make peace certain and lasting by the signature of the five articles, why should they not sign them, reserving to themselves the power to pass, as arbitral mediators, upon the respective claims, actual and declared in writing, of the contending Sovereigns?

Is it not the interest of every Citizen of a Town to prevent fire being put to his neighbour's house? Is it not to the interest of the sovereign Citizens of Europe to prevent the flame of war from being rekindled, lest it should spread nearer and nearer, and lay waste the whole of Europe and in consequence their own country?

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### CONCLUSION.

The Reader has seen clearly that there will never be any security for the regular fulfilment between Sovereigns of Treaties either past or future, and that there will never be any certain security against wars civil and foreign, until some shall have begun to form a lasting alliance and all the others shall have acceded to it one after the other.

The Reader has seen with the same clearness that once this Treaty were signed there would be complete security for the

regular fulfilment of treaties past and future, and complete security that peace would be lasting.

He has seen with the same clearness that the immunity from the great misfortunes caused by civil and foreign wars, and the advantages to be derived from a lasting peace and uninterrupted trade, will be compensation infinitely more substantial and of more advantage than all the mutual claims of one Power against another which are abandoned.

It is easy to conclude that the Emperor, the King of France, the King of Spain, the King of England, the King of Poland, and the other Sovereigns of Europe, have no more pressing or important business among them than the signature of the fundamental Treaty, or of the five fundamental Articles of a general alliance and a permanent [system of] arbitration, in order to render peace perfectly secure. *And this is what I proposed to prove.*

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FIRST SUPPLEMENT  
TO THE ABRIDGMENT OF THE PLAN  
FOR A LASTING PEACE.

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CONTINUATION OF THE OBJECTIONS.

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NINETEENTH OBJECTION.

The spirit of chicanery which has found its way into the Diets, the Imperial Chambers, and the Aulic Council, renders suits unending. Now this spirit may find its way into the Tribunal of the Sovereigns of Europe under the shelter of some ambitious Sovereign who wishes to dissolve the union of the allies by making them disgusted with the Tribunal.

*Answer.*

\* \* \* \* \*

The protraction of suits is an evil, but it is an evil a hundred times less than resort to war. . . .

It will be to the interest of all the allies of Europe to diminish the abuses of chicanery. And who is to prevent them from making at any time rules in order to avoid it? Who is to prevent them from seeing, and steadily following, the common interest of their association?

TWENTIETH OBJECTION.

Great Institutions are only gradually made. The Congress of Utrecht approached nearer to your system than that of Ryswick; the Congress of Cambrai still nearer than that of Utrecht, and the Congress of Soissons nearer than that of Cambrai. Treaties of defensive Alliance are more in fashion than ever, witness the

treaties of Vienna of 1731, and consequently accessions to these treaties have become more frequent. The Allies have begun to promise one another mutually the guarantee and security of their States. They have begun to agree upon mutual aid in money, in Troops, in Ships. Their interest in preserving peace makes itself felt more and more to all Sovereigns. But there is still a long stride to take to preserve their union itself : they must agree to a permanent [system of] arbitration with a permanent Congress to regulate their present and future differences without war.

We must endure more than a hundred years yet of war in Europe, and in consequence more than two hundred years of Sovereignty, before all rulers become fully convinced that no League, no Alliance, can be lasting without a permanent [system of] arbitration, and that therefore no power can have any security for the fulfilment of any promise, nor of any treaty, unless the general Association of the Sovereigns of Europe guarantees it.

\* \* \* \* \*

*Answer.*

\* \* \* \* \*

Is there anyone of us who, if he were first Minister to a Sovereign, would not advise him, would not press him strongly, to propose these five articles for signature to his allies? . . .

. . . Now why should not the Ministers of other Nations within thirty years have made the same studies and given the same attention to the matter as we have? Why should they not advise their King what we would advise him were we in their place?

\* \* \* \* \*

---

TWENTY-SECOND OBJECTION.

I quite understand that by your method future disputes between Sovereigns will be settled as our law-suits are; it may be by compromise and agreement by aid of Plenipotentiaries deputed to mediate in the matter, who will try to make the parties to the dispute see the rights and wrongs of the matter; it may be by a

provisional award, given in the first instance by a plurality of voices, and definitively some years later by a majority of three-quarters. But from that you argue no future dispute will ever produce war between any of the associates.

Yet a case may be discovered where your conclusion will not apply.

I will suppose, for example, that there has been a dispute between a very powerful Prince, such as the King of France, and a Prince much less powerful, such as the King of Sardinia, about some Villages or some trade matter, and that, mediation having failed, the dispute has been settled, first provisionally, and then definitively by a majority of three-quarters, in favour of the less powerful Prince.

I will suppose further that of the sixteen or seventeen Sovereigns who have participated in the decision against France, four of the most powerful in Europe have been opposed to the view of the majority. Will not then these four powers joined to France give the law to the other fifteen allied powers? And who shall prevent France from taking up arms in order to end the dispute successfully, from returning, that is to say, to the old method of ending differences by war, and from preferring this disastrous and ruinous method to the new and peaceful method of a permanent [system of] arbitration.

And so cases may arise in which European arbitration will not prevent war among the associates. And so it is useless to form an association.

#### *Answer.*

\*                      \*                      \*                      \*                      \*                      \*

[There can be] no authority, no lasting and unchangeable peace, with the unchangeable union of all parties, without the exact observation of the fundamental agreement that *each of the allies will always accord strict obedience to the decision given by a plurality provisionally, and definitively by a majority of three-quarters . . .* all the associates have agreed to preserve each of the allies in all that he actually possesses and in all that which is actually his territory. It is in this solemn act of mutual guarantee that the security of all the allies rests.



All will always be intimately concerned to maintain this article for their own security. For if their neighbour their friend is weakened, and if their neighbour their enemy, already very powerful, is strengthened, they lose much of their own security. . . .

So that the most powerful and the least powerful will have a very great and constant interest in preventing any of the associates from abandoning the method of arbitration to resort to the method of war, and from thus reducing Europe again to the disastrous confusion of foreign and civil wars.

\* \* \* \* \*

### FIRST CONCLUSION.

It is clear that in order to achieve an indissoluble league among Sovereigns it is absolutely necessary that they should renounce the method of war in order to settle differences which can no longer be of any great importance, since they will all be preserved in their actual possessions, and the succession of Sovereigns will be regulated and limited by the grand alliance.

### SECOND CONCLUSION.

It is clear that when they cannot come to an agreement through mediators, it is necessary that they should be judged by their allies, and from that it follows that it is desirable that there should be at least twelve or fifteen allies to decide, provisionally by a plurality, definitively by a majority of three-quarters.

### THIRD CONCLUSION.

It is clear also that, if the losing party could excuse himself from carrying out the decision without fear of punishment sufficiently great to make him carry out the decision, he would frequently so excuse himself, and thus would stupidly destroy the alliance and fall back thoughtlessly into the frightful calamities of anarchy.

## FOURTH CONCLUSION.

It is no less clear that unless the league is indissoluble there is neither any permanent government nor any security for the fulfilment of any promise between Sovereigns, and that in consequence there is not any security for Peace, for any truce, for the continuation of trade, for the reduction of military expenditure, for the preservation of States, [nor] for the preservation of Ruling Houses upon the Throne, and therefore that there is no security either for the fulfilment of the Pragmatic Sanction of the Emperor, or for the preservation of the protestant line upon the English Throne .

\*                      \*                      \*                      \*                      \*                      \*

## GENERAL CONCLUSION.

1°. Without the signature of the five articles establishing a European Diet [there is] no hope of a general defensive league, and partial leagues may always lead to war.

2°. Without a general league [there can be] no sufficient number of arbiters and no permanent system of arbitration.

3°. Without a permanent [system of] arbitration to settle the differences which have arisen and will arise between two Members of the league there can be no lasting alliance.

4°. Without a general and lasting league, and without a permanent [system of] arbitration, there can be no security for the fulfilment of any promise, no lasting Peace.

5°. Without a permanent and general congress there can be no facilities for agreeing upon the articles necessary to reinforce and perfect the general defensive League, no decision upon any difference, no ruling in unforeseen cases.

6°. Without a general and lasting defensive league there can be no hope of the cessation of the evils and crimes of wars civil and foreign, no hope of concord and tolerance between Christian Nations divided by Schism and Dogmas.

## SECOND SUPPLEMENT.

### ADVERTISEMENT TO THE READER.

I have been reproached, and with reason, because in the course of this Work I have not drawn sufficient illustration from the formation and duration of the Germanic Diet, nor from the immense advantages which the Sovereign States, both the most and the least powerful who compose it, have derived from it for the last six hundred years, so that this second Supplement is added to show that that which has already been done on a large scale can still more easily be done on a larger. The motives which ought to encourage the formation of the European Diet, and any difficulties which that formation may encounter, are the same motives and the same difficulties which prevailed at the formation of the Germanic Diet.

\* \* \* \* \*

There are a few small changes in the fundamental articles of this Supplement and in the Explanations. The Reader can take the advantage of fresh attention and further examination, or can pass them by if he has found nothing *essential* at fault in the former. For by Ministers all this must be regarded as no more than a scaffolding necessary to the building which they are to build.

---

### FUNDAMENTAL ARTICLES.

#### ARTICLE I.

*There shall be henceforth a lasting alliance between the Sovereigns of Europe who shall have signed the following articles.*

1°. *In order to form the permanent [system of] arbitration of the Republic of Europe.*

2°. *In order thus to have full security that their present and future difficulties will always be settled without war in which they*

*must run the risk of losing other things than the matter in dispute, which will never be of more than small importance to them.*

3°. *In order to have full and lasting security for the preservation of their persons, for the preservation of their States, complete, such as they are in actual possession of, and security for the lasting preservation of their posterity on the Throne in spite of conspiracy, sedition, and revolts of their Subjects, and also full security for the preservation of their rights in the state in which they actually possess them, according to the last Treaties.*

4°. *In order always to have perfect security for the full and lasting fulfilment of their mutual promises, past as well as future, under the guarantee of the Republic of Europe.*

5°. *In order always to have perfect liberty and security for the trade of their Subjects with Foreigners.*

6°. *In order always to be free from the extraordinary military expense by land and sea, which they have hitherto been obliged to incur in time of war, and to secure a great reduction of their ordinary military expenditure in time of peace, and, in consequence, in order to have much better means to spend usefully upon measures important for the augmentation of their revenues and the good of their Subjects.*

## EXPLANATIONS.

\*                      \*                      \*                      \*                      \*                      \*

## ARTICLE II.

*The nineteen principal Sovereigns of Europe and their Associates shall be invited to sign these five fundamental articles for the formation of a permanent European [system of] arbitration, and they shall each have one vote. . . .*

*These nineteen Powers shall preside in turn each week, and shall each contribute according to their revenues and to their charges to the common expenses of the European Republic, and this contribution shall be fixed in Congress provisionally, three months after signature, by a plurality of the voices of the allies, and definitively five years later by a majority of three-quarters.*

*Explanation.*

\* \* \* \* \*

The small Republics and less powerful Princes will be associated with a Sovereign Power to form a unit entitled to one vote, and disputes which arise on the subject of the votes of associated Princes will be settled by arbitration. And the part which the associated members shall have in the nomination of Plenipotentiaries will be settled by this permanent [system of] arbitration according to the greater or less extent of their contribution to the good and safety of the association. The Plenipotentiary of him who contributes double the amount contributed by another will have double the number of days in the course of the year on which his Plenipotentiary [sic] will have entry into congress to record his vote.

\* \* \* \* \*

ARTICLE III.

*To render the alliance perfectly secure the undersigned Sovereigns agree that each of them shall remain in possession of the States which they actually hold, and they have renounced, and renounce for themselves and their successors for ever, the adoption of the disastrous method of arms against one another as a means of settling present or future disputes or differences between themselves, and they agree always to follow henceforth the reasonable means of conciliation and compromise at the seat of the Congress, by the mediation of two Plenipotentiaries nominated by the European Diet; and in case this mediation should not be successful they agree to abide by the decision reached provisionally by a plurality of votes, and definitively by a majority of three-quarters five years later, by the Plenipotentiaries of the other allies, permanently assembled at Utrecht or elsewhere.*

\* \* \* \* \*

ARTICLE IV.

*If any of the allies refuse to carry out the decisions of the grand alliance, make preparations for war, attempt to make Treaties inconsistent with the European Association, take up arms*



*to resist or attack, or in short conduct hostilities against an ally, then the grand alliance shall put him to the ban of Europe as an enemy, and shall arm and proceed against him offensively, until he has carried out the said Decisions or Rulings, and given security to repair the injury caused by war, and to repay the cost of the war, or even the cost of preparations for war on the part of each of the allies.*

\*                      \*                      \*                      \*                      \*                      \*

#### ARTICLE V.

*The plenipotentiaries of the European Association shall always have the power, by a plurality [etc.] . . . to draw up in the Diet, upon instructions from their respective Courts, the Rules which they shall judge to be requisite to procure to the Republic of Europe and to each of its Members all the advantages possible. But nothing shall ever be changed in the five fundamental articles unless with the unanimous consent of all the Confederates.*

\*                      \*                      \*                      \*                      \*                      \*

#### SECOND REMARK.

Cannot the fifteen Powers most interested in this defensive alliance assemble in Holland, at the Hague, one after another, by their Plenipotentiaries, and unite for the signature of these five fundamental articles, and then declare that in future wars between the other four powerful Sovereigns, the Republic of Europe will take the part of him who shall accept its arbitration?

What is there in all this any more impracticable than that which has been enacted before our eyes for centuries between the Powers of Germany for their mutual protection and in order to settle their disputes without war?

#### THIRD REMARK.

He who, feeling himself to be superior in force, would be Judge in his own Cause, and claims that superiority in force shall alone decide what is just between him and one who is weaker, clearly wants something which is unjust. He acts contrary to the first

rule of natural justice: *Do not to another weaker than you are that which you would not that another being the stronger should do to you, the weaker.*

From that it follows that the Sovereign who is the stronger, who in a dispute with his less powerful neighbour will not submit to arbitration, is not only unjust before God, but is also hateful in the eyes of men, who have the right to judge of the justice and the injustice of his conduct, as he has the right to judge of the merits and demerits of theirs.

From that it follows that it is not true that every Sovereign has to account for what he does to God only. For he must also account to the Public, upon whom depends his reputation.

It is true that if he is more powerful than any one of his neighbours separately, and there is no permanent union among them, God alone can punish his injustice. But that does not prevent his neighbours, the Public, and even his Subjects holding him to be unjust and hateful.

#### FOURTH REMARK.

The three [sic] propositions which I have explained in this second Supplement, appear to me to go to the root of the matter quicker, and more easily, than those which I explained in the body of this work. I have added Explanations of five new Objections. In this consists the whole of this second Supplement.

---

### FIRST DISCOURSE.

#### PROPOSITION TO BE EXPLAINED.

So long as there shall be no treaty of mutual defence among the Sovereigns of Europe, there will be no Power sufficiently superior in force and sufficiently interested to constrain the Sovereigns by its sole authority, and by a sufficiently wholesome fear, to settle their disputes without war, either by mediation and compromise, or by means of the award of arbiters who are their peers, and there can never be expected to be secure peace between them;

there will never be anything but an uncertain truce during which they will be obliged always to be armed at great expense in order to be on their guard, and they will never have complete security for the fulfilment of their mutual promises.

*Explanation.*

\* \* \* \* \*

As the method of war has certain great inconveniences from which the method of resort to a permanent [system of] arbitration, sufficiently powerful and sufficiently interested to secure the execution of its decisions, is free, it is desirable to make a note of what these great inconveniences are, which do not arise under the salutary method of a permanent system of arbitration, and which are necessary accompaniments of the disastrous method of resort to superiority of force in war.

---

THE FIRST ILL CONSEQUENCE OF THE METHOD OF WAR.

*No complete security except by the annihilation of neighbours*

\* \* \* \* \*

---

SECOND . . .

*Great expense to keep on one's guard.*

\* \* \* \* \*

---

THIRD . . .

*No certain protection during minorities and rebellions.*

\* \* \* \* \*

FOURTH . . .

*No security for the fulfilment of promises.*

\* \* \* \* \*

FIFTH . . .

*The great cost of arms.*

\* \* \* \* \*

SIXTH . . .

*Constraint to take part in the wars of neighbours.*

\* \* \* \* \*

SEVENTH . . .

*Loss to the nations which are at war of the revenue  
derived from trade.*

\* \* \* \* \*

SECOND DISCOURSE.

PROPOSITION TO BE EXPLAINED.

*The system of the balance of power between the house of France and the house of Austria is not sufficient to secure the Sovereigns of Europe and their subjects from the misfortunes of foreign and civil wars, nor consequently to give complete security for the preservation of Sovereignities and of the sovereign houses upon the Throne.*

\* \* \* \* \*

## REFLECTION.

Repetitions, which are tiresome in a Work which is read for pleasure, are for the bulk of readers necessary in an argumentative Work, particularly when the matter is very new and very important.

Those who have read a proof several times in succession are in a better position to prove it to others. For in truth you do not know a thing well unless you can easily prove it.

---

## ADVERTISEMENT TO THE READER.

*I wrote at the end of 1736 certain Observations on the last Treaties of Peace, which some of my friends think very appropriate to be placed at the end of this Work.*

---

OBSERVATIONS ON THE LAST TREATIES OF  
PEACE.

\*            \*            \*            \*            \*            \*

## FOURTH PROPOSITION.

A very powerful Sovereign who refuses to sign and thus to contribute to the establishment of a European Diet, commits a crying and irreparable injustice against the nations of Europe, and in consequence is most worthy of divine punishment in the future life.

\*            \*            \*            \*            \*            \*

## REFLECTION.

Those who think they see insurmountable difficulties amounting to the rejection of this plan can investigate whether I have explained them sufficiently in the edition in three volumes, and



in the abridgment in one volume. For I have answered more than a hundred objections, some frivolous, some specious, which I have been carefully collecting for more than twenty years.

I give this counsel to those who are employed in this kind of public affairs, and only to those among them who expect one day to be punished if they have failed in a duty essential to their employment, if they have been in a position by their efforts to protect the nations of Europe from very great misfortunes, and have not made the effort, and to those who hope to get to Heaven by having procured, for the service of God, great benefits to their neighbour and other men by their salutary advice. For will they ever have an opportunity of procuring greater benefits for them than those which will accrue to them from a lasting peace among Christians?

And, after all, is there in life anything more important to them than their salvation? Is there anything more important to their salvation than to procure to men, for the service of God, an infinite good? Is there to that end any endeavour more important to make than to begin to search out, and to cause to be sought out, the means for fulfilling a plan so acceptable to all Sovereigns and to all their subjects? Is there any plan which it is more important to advance by their writings, by their counsel, by their discussions?

\* \* \* \* \*



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PERPETUAL PEACE.

WITH AN INTRODUCTION

BY

*Constantine*  
C. JOHN COLOMBOS, LL.D.,

OF UNIVERSITY COLLEGE AND THE LONDON SCHOOL OF ECONOMICS,  
AND OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW.

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## INTRODUCTION.

No series of legal historical classics for students of the Science of Law would be complete without the inclusion of Jeremy Bentham among its representative authors, and his *Plea for an Universal and Perpetual Peace* is peculiarly appropriate as an example of the ideas of a great thinker at a time (1786-1789) when a great political upheaval in France had excited the hopes of philosophic idealists and provoked intenseness of feeling and general criticism of existing institutions and conventional modes of thought. A comparison of his main suggestion in this treatise with our present attitude of mind towards international relations, and the realisation in general practice of such lofty ideals as those set forth in the Covenant of the League of Nations, shows how far the civilised world to-day has moved towards general peace—the unity between the nations which has been thought of as merely visionary. Bentham is the philosophical lawyer of his age, with vision and clear reasoning and practical common sense; and he has had more effect on our own law than any other man in the way of reform and enlightenment.

The span of his life, eighty-five years, extended from the middle of the eighteenth century well into the nineteenth. He saw the rise of the United States, the European convulsion of the Seven Years' War, the attempted realisation of the theories of philosophic thinkers and authors, and finally the revolt of the populations of the chief European States against the reactionary power and spirit of Governments inspired by dynastic aims and crazy of imperial aggrandisement. Our own country was first beginning its era of peaceful reform by political emancipation, and Bentham thus forms a connecting link between two widely-differing periods of thought and action.

The main facts of his life may be briefly stated; they are to be found in detail in the *Dictionary of National Biography* and other well-known works of reference. Born at Houndsditch on February 15, 1747 (8), the son and grandson of lawyers, he was educated at Westminster School (1755-1760) and Queen's

College, Oxford (1760-1763), and took his Bachelor of Arts 1763, and his Master of Arts 1766, and left Oxford 1767. Meantime he had entered as a student at Lincoln's Inn (1763), of which he became a Master of the Bench in 1817.

Bentham, however, made no attempt to succeed in his profession. His mind was entirely set upon the task of social reform. Even from early student days his imagination was filled with a comprehensive notion of the public good. When hardly twenty-two he had read in Priestley of the greatest happiness of the greatest number, an idea which he at once appropriated and wrought into the very texture of his works. In his own words, public good had no limits other than those of the habitable globe. This explains why Bentham invariably took as a basis for his reforms "the common and equal utility of all nations." To be judged fairly, in fact, Bentham must be judged as a citizen of the world, imbued with a most ardent love for humanity. The system upon which he proceeded was to inquire of all institutions whether their existence was justified by their utility. If not, his efforts would tend in suggesting a new form of institution which would answer the desired purpose of the greatest happiness of mankind. In an introduction to his works written in 1837, Burton gives a long list of reforms first advanced by Bentham and subsequently adopted by the British Legislature. Any review, however, of the salutary influence exercised by Bentham would be sadly incomplete if it were confined to his own country. His works embraced the whole of the civilised world, and the constitutions and practically all of the laws of the new States which sprung up during his time show deep tracings of his teachings. His writings have been, and remain, "a storehouse of instruction for statesmen, an armoury for legal reformers." "*Pillé par tout le monde,*" as Talleyrand said of him, "*il est toujours riche.*"

Bentham died on June 6, 1832, and left his body to be dissected for the benefit of mankind. His skeleton, clothed in his usual clothes, is kept in University College, London.

Much of his work remains unpublished, although a great part of his MSS., which fill eighty wooden boxes, as much deserves publication as that which has already appeared in the Press. His published writings cover the whole sphere of ethics, logic, and



political science. Bentham's principal contribution, however, was in the field of jurisprudence. In the light of his teachings, law gained a new dignity, and became "the science which held in its hand the happiness of men and nations."

On the special subject of International Law, Bentham's work is contained within a comparatively small compass. His *Principles of International Law* hardly cover twenty-four pages out of the eleven thickly-printed volumes of the collected works published in 1838 by John Bowring. But within this narrow limit are comprised reforms which appear primordial at the present time, such as disarmament, the institution of an International Court, and the burning question of the publicity of foreign negotiations and treaties. It is not unimportant to remark, on the other hand, that it was Bentham who first coined the words "International Law" in order to establish a distinction between the mutual transactions of Sovereigns as such and laws calculated for internal government, a distinction which had never been definitely made in any previous work on the subject. The first serious impulse to the codification of International Law was also initiated by Bentham, who seems to have forestalled, in a great measure, the modern movement towards a general code of the main rules of that law.

Bentham's *Principles of International Law* are collected from MSS. which bear date 1786 to 1789 and comprise four essays:—

- (1) Objects of International Law.
- (2) Subjects, or the Personal Extent of the Dominion of the Laws.
- (3) War, considered in respect of its Causes and Consequences.
- (4) A Plan for an Universal and Perpetual Peace.

This last, the longest and most important of the four essays, is reprinted in full here. A short commentary, however, of the three other essays may perhaps be also usefully made at this stage, since all the four essays are closely related to each other.

#### FIRST ESSAY.—OBJECTS OF INTERNATIONAL LAW.

Bentham describes the objects of International Law for any given nation as being:—

- (1) Utility general, in so far as it consists in doing no injury

to the other nations, saving the regard which is proper to its own well-being;

- (2) Utility general, in so far as it consists in doing the greatest good possible to other nations;
- (3) Utility general, in so far as it consists in the given nation not receiving any injury from other nations respectively;
- (4) Utility general, in so far as it consists in receiving the greatest possible benefit from all other nations, saving always the regard due to the well-being of these nations;
- (5) In case of war, make such arrangements that the least possible evil may be produced, consistently with the acquisition of the good which is sought for.

Expressed in the most general manner, the task which a legislator preparing an international code would propose to himself as his object would, therefore, in Bentham's opinion, be the greatest happiness of all nations taken together.

Bentham was opposed to war, which he considered not only as an evil, but as the complication of all other evils. Still, he believed that there might possibly be circumstances justifying war when no other method of obtaining satisfaction by an injured complainant could be found, and where there was no arbitrator between the conflicting nations sufficiently strong to take from them all hope of resistance. When the worst happened, and hostilities broke out, Bentham advocated an appeal to the tribunal of public opinion for the purpose of controlling the conduct of war and preventing unnecessary evils and the consequent infringement of the greatest happiness principle.

## SECOND ESSAY.—SUBJECTS, OR THE PERSONAL EXTENT OF THE DOMINION OF THE LAWS.

In this essay Bentham lays down the main rules which ought to govern the allegiance of a person to a given State. Proceeding as usual on the exhaustive plan, he examines the grounds upon which a Sovereign can establish a claim of standing dominion over his supposed subjects. Territorial dominion, although possessing most of the desired qualifications, is not a circumstance

of sufficient permanence, since the same individual who finds himself one day on land belonging to a given Sovereign may the next day transfer himself to the territory of another Sovereign. It would, therefore, be unwise to base the determining criterion on a situation which is liable to change at any time.

To Bentham's mind, the test ought to rest on *an event*. Such an event is that afforded by *birth*, which must necessarily happen for a man to exist, and which cannot happen a second time. But if birth be the ground of dominion, it is only in virtue of the presumption which it affords of the other concurrent circumstance of presence or residence. It is true that in almost every State there are some who emigrate from the dominion within which they were born. But in almost every State it is otherwise with by far the greatest number. In civilised nations the greater part of mankind are *glebæ ascriptitii*—inhabitants of the soil on which they were born.

It is in this way that the dominion over the soil confers a *de facto* dominion over the greater part of the natives, its inhabitants, and that they are treated as owing a permanent allegiance to the Sovereign of that soil; and, speaking generally, there seemed to Bentham no reason why, judging upon the principle of utility, it should not be deemed to be so even *de jure*.

### THIRD ESSAY.—WAR, CONSIDERED IN RESPECT OF ITS CAUSES AND CONSEQUENCES.

When a State has received what it considers as an injury from another State, there being no supreme controlling authority between nations, it must either submit to the injury, induce the other State to consent to the appointment of a common Judge, or else go to war. This affords Bentham the occasion for setting out an enumeration of the principal causes or occasions of war, which, according to his classification, may be grouped into two big categories:—(1) Offences, real or pretended, of the citizens of one State towards the citizens of another State caused by the interests of the citizens; and (2) offences, real or pretended, of the citizens of one State

towards the citizens of another State caused by the interests or pretensions of Sovereigns.

As to wars, they may be either (i) *bona fide*, and the remedy against these is to be found in the establishment of the Tribunal of Peace, which Bentham describes in his fourth essay; (ii) or wars of passion, and the remedy against these is to be found in reasoning, showing the repugnancy between passion, on the one hand, and justice, as well as interest, on the other; (iii) or lastly, wars of ambition, insolence, or rapine, and the remedy against these is again reasoning, showing the repugnancy between ambition and true interest.

In all these cases the utility of the State which thought itself aggrieved depended partly on its relative force, partly upon what appeared to have been the motive from which the injury originated. Where the aggressor was not actuated by any *mala fides*, it could never be for the advantage of the aggrieved State to go to war. If *mala fides* existed, whether even then it was worth while to have recourse to war depended on circumstances. If the injury was but a prelude to others, and proceeded from a disposition which only entire destruction could satisfy and war presented any tolerable chance of success, prudence and reason might join with passion in prescribing war as the only remedy in so desperate a disease. If, on the other hand, the aggression, though too flagrant not to be accompanied by *mala fides*, had for its origin some limited object, the attainment of which would prevent war, then it might be infinitely more prudent to submit to it rather than encounter the calamities of war.

When war had broken out, a palliative for its evils could be found in the appointment of war residents to provide for prisoners, prevent violations of the laws of warfare, and act as a channel of communication between the belligerents, should an accommodation be desired.

#### FOURTH ESSAY.—A PLAN FOR AN UNIVERSAL AND PERPETUAL PEACE.

These remedies for suppressing the causes of war between States appeared to Bentham himself so inadequate that he suggested in his fourth essay an important plan for the main-

tenance of peace amongst nations. He based his plan upon two fundamental principles, both of which he considered essential to its success:—

- (1) The reduction and fixation of the forces of the several States which composed the European Concert, or, in other words, disarmament.
- (2) The emancipation of the colonial dependencies of each State. This emancipation was in harmony with Bentham's deep conviction that colonies, besides being a source of constant conflicts between nations, were of little or no utility to their mother country.

For the realisation of the first principle—that of world disarmament—Bentham advocated the conclusion of general and perpetual treaties limiting the number of naval and military forces to be kept by each State. In a stirring appeal to his countrymen, Bentham showed how such an agreement would have nothing in it which would be dishonourable or detrimental to the national dignity or pride of a State, but that, on the contrary, the nation which would get the start of the other in making the proposal would “crown itself with everlasting honour.”

As a natural corollary to the maintenance of peace, Bentham urged the establishment of an International Court of Judicature for the determination of disputes between the several States. It is significant that the author, in his plea for an International Tribunal, was clearly of opinion that such a tribunal should not “be armed with any coercive powers,” a reasoning which aptly applies to the present Permanent Court of International Justice.

Besides a Common Judicature, Bentham was also in favour of a Common Legislature between States. The proceedings of such a Congress or Diet, as Bentham styles it, were to be all public, and its functions were to consist (a) in recording its resolutions on all matters affecting the relations between the States composing it; (b) in causing those resolutions to be circulated among all the members; and (c) in placing under the ban of Europe any State which, after the lapse of a reasonable time, would refuse to conform itself to the Congress's decrees.

In Bentham's view, however, the most powerful instrument for the sanction of the Congress's resolutions was public opinion,



aided and encouraged by the liberty of the Press and the widest and most extensive circulation of the Congress's work.

Here, again, Bentham may be appropriately described as a pioneer of the present League of Nations, and his plan therefore deserves the closest study.

On another point—that of the secrecy of foreign negotiations—Bentham was also a forerunner of the modern demand for greater publicity. Taking as illustration of his arguments the Foreign Department of the British Cabinet of his time, he attempted to show that the principle of mystery surrounding the conclusion of International Treaties was not only altogether useless, but equally repugnant to the interests of liberty and peace. History proved, in fact, that it was the veil of secrecy cast over foreign negotiations that made it possible for Ministers in the past to plunge the nation into a war against its will. But if, as the author vigorously advocated in his writings, war is useless and of no profit to the interests of a State, or of advantage to the trade of its citizens, anything tending to minimise wars and preserve peace ought to be strenuously supported.

Bentham's conclusion on the whole question was that, as an inquiry into the facts governing international relations would abundantly prove, there was nowhere a real conflict between the interests of nations; but that, on the contrary, when States began to get better accustomed to public negotiations and to the performance of mutual services and obligations towards each other, they would daily find more inducements to preserve the blessings of peace and fewer causes to resort to war.

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## A PLAN FOR AN UNIVERSAL AND PERPETUAL PEACE.

The object of the present essay is to submit to the world a plan for an universal and perpetual peace. The globe is the field of dominion to which the author aspires; the Press the engine, and the only one he employs; the cabinet of mankind the theatre of his intrigue.

The happiest of mankind are sufferers by war; and the wisest, nay, even the least wise, are wise enough to ascribe the chief of their sufferings to that cause.

The following plan has for its basis two fundamental propositions:—(1) The reduction and fixation of the force of the several nations that compose the European system; and (2) the emancipation of the distant dependencies of each State (*a*). Each of these propositions has its distinct advantages, but neither of them, it will appear, would completely answer the purpose without the other.

As to the utility of such an universal and lasting peace, supposing a plan for that purpose practicable and likely to be adopted, there can be but one voice. The objection, and the only objection, to it is the apparent impracticability of it—that it is not only hopeless, but that to such a degree that any proposal to that effect deserves the name of visionary and ridiculous. This objection I shall endeavour, in the first place, to remove, for the removal of this prejudice may be necessary to procure for the plan a hearing.

What can be better suited to the preparing of men's minds for the reception of such a proposal than the proposal itself?

Let it not be objected that the age is not ripe for such a proposal. The more it wants of being ripe the sooner we should

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(*a*) Two original writers have gone before me in this line, Dean Tucker and Dr. Anderson. The object of the first was to persuade the world of the inutility of war, but more particularly of the war then raging when he wrote; the object of the second to show the inutility of the colonies.

begin to do what can be done to ripen it; the more we should do to ripen it. A proposal of this sort is one of those things that can never come too early nor too late.

Who that bears the name of Christian can refuse the assistance of his prayers? What pulpit can forbear to second me with its eloquence? Catholics and Protestants, Church of England men and Dissenters, may all agree in this if in nothing else. I call upon them all to aid me with their countenance and their support.

The ensuing sheets are dedicated to the common welfare of all civilised nations, but more particularly of Great Britain and France.

The end in view is to recommend three grand objects—simplicity of government, national frugality, and peace.

Reflection has satisfied me of the truth of the following propositions:—

I. That it is not the interest of Great Britain to have any foreign dependencies whatsoever.

II. That it is not the interest of Great Britain to have any treaty of alliance, offensive or defensive, with any other Power whatsoever.

III. That it is not the interest of Great Britain to have any treaty with any Power whatsoever, for the purpose of possessing any advantage whatsoever in point of trade, to the exclusion of any other nation whatsoever.

IV. That it is not the interest of Great Britain to keep up any naval force beyond what may be sufficient to defend its commerce against pirates.

V. That it is not the interest of Great Britain to keep on foot any regulations whatsoever of distant preparation for the augmentation or maintenance of its naval force, such as the Navigation Act, bounties on the Greenland trade, and other trades regarded as nurseries for seamen.

VI., VII., VIII., IX., and X. That all these several propositions are also true of France.

As far as Great Britain is concerned, I rest the proof of these several propositions principally upon two very simple principles:—

1. That the increase of growing wealth in every nation in



a given period is necessarily limited by the quantity of capital it possesses at that period.

2. That Great Britain, with or without Ireland, and without any other dependency, can have no reasonable ground to apprehend injury from any one nation upon earth.

Turning to France, I substitute to the last of the two just-mentioned propositions the following:—

3. That France, standing singly, has at present nothing to fear from any other nation than Great Britain; nor, if standing clear of her foreign dependencies, would she have anything to fear from Great Britain.

XI. That, supposing Great Britain and France thoroughly agreed, the principal difficulties would be removed to the establishment of a plan of general and permanent pacification for all Europe.

XII. That for the maintenance of such a pacification general and perpetual treaties might be formed, limiting the number of troops to be maintained.

XIII. That the maintenance of such a pacification might be considerably facilitated by the establishment of a Common Court of Judicature for the decision of differences between the several nations, although such Court were not to be armed with any coercive powers.

XIV. That secrecy in the operations of the Foreign Department ought not to be endured in England, being altogether useless and equally repugnant to the interests of liberty and to those of peace.

PROPOSITION I.—That it is not the interest of Great Britain to have any foreign dependencies whatsoever.

The truth of this proposition will appear if we consider, first, that distant dependencies increase the chances of war:—

1. By increasing the number of possible subjects of dispute.

2. By the natural obscurity of title in case of new settlements or discoveries.

3. By the particular obscurity of the evidence resulting from the distance.

4. By men's caring less about wars when the scene is remote than when it is nearer home.

Secondly, that colonies are seldom, if ever, sources of profit to the mother country.

Profitable industry has five branches:—(1) Production of new materials, including agriculture, mining, and fisheries; (2) manufactures; (3) home trade; (4) foreign trade; and (5) carrying trade. The quantity of profitable industry that can be carried on in a country being limited by that of the capital which the country can command, it follows that no part of that quantity can be bestowed upon any one branch; but it must be withdrawn from, or withheld from, all the others. No encouragement, therefore, can be given to anyone, but it must be a proportionable discouragement to all the others. Nothing can be done by Government to induce a man to begin or continue to employ his capital in any one of those branches, but it must induce him in the same degree to withdraw or withhold that capital from all the rest. Of these five branches, no one is to such a degree more beneficial to the public than the rest as that it should be worth its while to call forth the powers of law to give it an advantage. But if there were any, it would unquestionably be the improvement and cultivation of land, every fictitious encouragement to any one of these rival branches being a proportionable discouragement to agriculture. Every encouragement to any of those branches of manufacture which produce articles that are at present sold to the colonies is a proportionable discouragement to agriculture.

When colonies are to be made out to be beneficial to the mother country, and the quantum of the benefit is to be estimated, the mode in which the estimate is made is curious enough. An account is taken of what they export, which is almost the whole of their produce. All this, it is said, while you have the colonies, is yours; this is exactly what you lose if you lose your colonies. How much of all this is really yours? Not one single halfpenny. When they let you take it from them, do they give it to you for nothing? Not they, indeed; they make you pay for it just as anybody else would do. How much? Just so much as you would pay them if they belonged to themselves or to anybody else.

For maintaining colonies there are several avowed reasons, besides others which are not avowed: of the avowed reasons,

by far the principal one is the benefit of trade. If your colonies were not subject to you, they would not trade with you; they would not buy any of your goods, or let you buy any of theirs; at least, you could not be sure of their doing so: if they were subject to anybody else they would not do so, for the colonies of other nations are, you see, not suffered to trade with you. Give up your colonies and you give up so much of your trade as is carried on with your colonies. No, we do not give up any such thing—we do not give up anything whatsoever. Trade with colonies cannot, any more than with anywhere else, be carried on without capital: just so much of our capital as is employed in our trade with the colonies—just so much of it is not employed elsewhere—just so much is either kept or taken from other trades.

Suppose, then, any branch of trade or manufacture to decline—even suppose it lost altogether—is this any permanent loss to the nation? Not the smallest. We know the worst that can happen from any such loss; the capital that would otherwise have been employed in the lost branch will be employed in agriculture. The loss of the colonies, if the loss of the colony trade were the consequence of the loss of the colonies, would at the worst be so much gain to agriculture.

Other reasons against distant dominion may be found in a consideration of the good of the Government. Distant mischiefs make little impression on those on whom the remedying of them depends. A single murder committed in London makes more impression than if thousands of murders and other cruelties were committed in the East Indies. The situation of Hastings, only because he was present, excited compassion in those who heard the detail of the cruelties committed by him with indifference.

The communication of grievances cannot be too quick from those who feel them to those who have the power to relieve them. The reason which in the old writs the King is made to assign for his interfering to afford relief is the real cause which originally gave birth to that interference—it is one of those few truths which have contrived to make their way through the thick cloud of lies and nonsense they contain. “See what it is that these people want,” says the Sovereign to the ministers of justice, “that I may not any more be troubled with their noise.”

The motive assigned to the unjust Judge in the Gospel is the motive which the Sovereign, who is styled the fountain of justice, is thus made to avow.

The following, then, are the final measures which ought to be pursued:—

1. Give up all the colonies.
2. Found no new colonies.

The following is a summary of the reasons for giving up all the colonies:—

1. Interest of the mother country.
  1. Saving the expense of the establishments, civil and military.
  2. Saving the danger of war (a) For enforcing their obedience; (b) on account of the jealousy produced by the apparent power they confer.
3. Saving the expense of defending them in case of war on other grounds.
4. Getting rid of the means of corruption afforded by the patronage (a) of their civil establishments; (b) of the military force employed in their defence.
5. Simplifying the whole frame of government, and thereby rendering a competent skill in the business of government more attainable (a) to the members of administration; (b) to the people (b).

(b) Reasons for giving up Gibraltar:—

1. The expense of the military establishment, viz., fortifications, garrisons, ordnance, recruiting service, and victualling.
2. The means of corruption resulting from the patronage.
3. The saving of the danger of war with Spain, to which the possession of the place is a perpetual provocation.
4. The price that might be obtained from Spain for the purchase of it.
5. Saving the occasional expense of defending it and victualling it in war.
6. The possession of it is useless. It is said to be useful only on account of the Levant trade. But (1) we could carry on that trade equally well without Gibraltar. (2) If we could not, we should suffer no loss; the capital employed in that trade would be equally productive if employed in any other. (3) Supposing this the most productive of all trades, yet what we lost by losing Gibraltar would only be equal to the difference between the percentage gained in that trade and the percentage gained in the next most productive trade. For (4) we could still do as the Swedes, Danes, Dutch, &c., and as we did before we had possession of Gibraltar.

Reasons for giving up the East Indies:—

1. Saving the danger of war.
2. Getting rid of the means of corruption resulting from the patronage, civil and military.
3. Simplifying the government.

The stock of national intelligence is deteriorated by the false notions which must be kept up, in order to prevent the nation from opening its eyes and insisting upon the enfranchisement of the colonies.

At the same time bad government results to the mother country from the complication of interests, the indistinct views, and the consumption of time occasioned by the load of distant dependencies.

## II. Interest of the colonies.

Diminishing the chance of bad government resulting from (1) opposite interest; (2) ignorance.

The real interests of the colony must be sacrificed to the imaginary interests of the mother country. It is for the purpose of governing it badly, and for no other, that you can wish to get or to keep a colony. Govern it well, it is of no use to you. Govern it as well as the inhabitants would govern it themselves—you must choose those to govern it whom they themselves would choose. You must sacrifice none of its interests to your own—you must bestow as much time and attention to their interests as they would themselves; in a word, you must take those very measures, and none others, which they themselves would take. But would this be governing? And what would it be worth to you if it were?

After all, it would be impossible for you to govern them so well as they would govern themselves on account of the distance (*c*).

The following are approximating measures:—

1. Maintain no military force in any of the colonies.
2. Issue no moneys for the maintenance of any civil establishment in any of the colonies.
3. Nominate to the offices in the colonies as long as they permit you; yield as soon as they contest such nomination.

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4. Getting rid of prosecutions that consume the time of Parliament and beget suspicion of injustice.

5. Preventing the corruption of the morals of the natives by the example of successful rapacity.

(*c*) It is in proportion as we see things—as they are brought within the reach of our attention and observation—that we care for them. A Minister who would not kill one man with his own hands does not mind causing the death of myriads by the hands of others at a distance.



4. Give general instructions to governors to consent to all acts presented to them.

5. Issue no moneys for fortifications.

PROPOSITION II.—That it is not the interest of Great Britain to have any treaty of alliance, offensive or defensive, with any other Power whatsoever.

Reason: saving the danger of war arising out of them.

And more especially ought not Great Britain to guarantee foreign Constitutions.

Reason: saving the danger of war resulting from the odium of so tyrannical a measure.

PROPOSITION III.—That it is not the interest of Great Britain to have any treaty with any Power whatsoever for the purpose of possessing any advantages whatsoever, in point of trade, to the exclusion of any other nation whatsoever.

That the trade of every nation is limited by the quantity of capital is so plainly and obviously true as to challenge a place among self-evident propositions. But self-evident propositions must not expect to be easily admitted, if admitted at all, if the consequences of them clash with prevalent passions and confirmed prejudices.

Nations are composed of individuals. The trade of a nation must be limited by the same causes that limit the trade of the individual. Each individual merchant, when he has as much trade as his whole capital, and all the credit he can get by means of his capital can suffice for carrying on, can have no more. This being true of each merchant, is not less true of the whole number of merchants put together.

Many books directly recognise the proposition, that the quantity of trade a nation can carry on is limited—limited by the quantity of its capital. None dispute the proposition; but almost all, somewhere or other, proceed upon the opposite supposition; they suppose the quantity of trade to have no limitation whatsoever.

It is a folly to buy manufactured goods, wise to buy raw materials. Why? Because you sell them to yourselves, or, what is still better, to foreigners, manufactured; and the manufacturer's profit is all clear gain to you. What is here forgotten is,

that the manufacturer, to carry on his business, must have a capital; and that just so much capital as is employed in that way is prevented from being employed in any other.

Hence the perfect inutility and mischievousness of all laws and public measures of government whatsoever, for the pretended encouragement of trade—all bounties in every shape whatsoever—all non-importation agreements and engagements to consume home manufactures in preference to foreign—in any other view than to afford temporary relief to temporary distress.

But of the two—prohibitions and bounties, penal encouragements and remuneratory—the latter are beyond comparison the most mischievous. Prohibitions, except while they are fresh and drive men at a great expense out of the employments they are embarked in, are only nugatory. Bounties are wasteful and oppressive: they force money from one man in order to pay another man for carrying on a trade, which, if it were not a losing one, there would be no need of paying him for.

What, then, are all modes of productive industry alike? May not one be more profitable than another? Certainly. But the favourite one—is it, in fact, more profitable than any other? That is the question and the only question that ought to be put; and that is the very question which nobody ever thinks of putting.

Were it ever put and answered, and answered ever so clearly, it never could be of any use as a ground for any permanent plan of policy. Why? Because almost as soon as one branch is known to be more profitable than the rest, so soon it ceases so to be. Men flock to it from all other branches, and the old equilibrium is presently restored. Your merchants have a monopoly as against foreigners? True, but they have no monopoly as against one another. Men cannot, in every instance, quit the less productive branch their capitals are already employed in, to throw them into this more productive one? True—but there are young beginners as well as old stagers; and the first concern of a young beginner, who has a capital to employ in a branch of industry, is to look out for the most profitable.

Objection:—Oh! but it is manufacture that creates the demand for the productions of agriculture. You cannot, therefore, increase the productions of agriculture but by increasing manufactures. No such thing. I admit the antecedent—I deny the

consequence. Increase of manufactures certainly does create an increase in the demand for the productions of agriculture. Equally certain is it that the increase of manufactures is not necessary to produce an increase in that demand. Farmers can subsist without ribbons, gauzes, or fine cambrics. Weavers of ribbons, gauzes, or fine cambrics cannot subsist without the production of agriculture; necessary subsistence never can lose its value. Those who produce it are themselves a market for their produce. Is it possible that provisions should be too cheap? Is there any present danger of it? Suppose (in spite of the extreme absurdity of the supposition) that provisions were growing gradually too cheap, from the increase of the quantity produced, and the want of manufacturers to consume them, what would be the consequence? The increasing cheapness would increase the facility and disposition to marry: it would thence increase the population of the country; and the children thus produced, eating as they grew up, would keep down this terrible evil of a superabundance of provisions.

Provisions, the produce of agriculture, constantly and necessarily produce a market for themselves. The more provisions a man raises, over and above what is necessary for his own consumption, the more he has to give to others, to induce them to provide him with whatever, besides provisions, he chooses to have. In a word, the more he has to spare, the more he has to give to manufacturers; who, by taking it from him, and paying him with the produce of their labours, afford the encouragement requisite for the productions of the fruits of agriculture.

It is impossible, therefore, that you can ever have too much agriculture. It is impossible that while there is ground untilled, or ground that might be better tilled than it is, that any detriment should ensue to the community from the withholding or withdrawing capital from any other branch of industry, and employing it in agriculture. It is impossible, therefore, that the loss of any branch of trade can be productive of any detriment to the community, excepting always the temporary distress experienced by the individuals concerned in it for the time being, when the decline is a sudden one.

The following are the measures the propriety of which results from the above principles :—

1. That no treaties granting commercial preferences should be made.

2. That no wars should be entered into for compelling such treaties.

3. That no alliances should be contracted for the sake of purchasing them.

4. That no encouragement should be given to particular branches of trade, by—

(a) Prohibition of rival manufactures.

(b) Taxation of rival manufactures.

(c) Bounties on the trade meant to be favoured (d).

5. That no treaties should be entered into insuring commercial preferences.

They are useless as they add nothing to the mass of wealth; they only influence the direction of it.

PROPOSITION IV.—That it is not the interest of Great Britain to keep up any naval force beyond what may be sufficient to defend its commerce against pirates.

It is unnecessary, except for the defence of the colonies, or for the purposes of war, undertaken either for the compelling of trade or the formation of commercial treaties.

PROPOSITION V.—That it is not the interest of Great Britain to keep on foot any regulations whatsoever of distant preparation for the augmentation or maintenance of its naval force, such as the Navigation Act, bounties on the Greenland trade, and other trades regarded as nurseries for seamen.

This proposition is a necessary consequence of the foregoing one.

PROPOSITIONS VI., VII., VIII., IX. and X.

Propositions similar to the foregoing are equally true applied to France.

PROPOSITION XI.—That supposing Great Britain and France thoroughly agreed, the principal difficulties would be removed to the establishment of a plan of general and permanent pacification for all Europe.

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(d) All bounties on particular branches of trade do rather harm than good

PROPOSITION XII.—That for the maintenance of such a pacification, general and perpetual treaties might be formed, limiting the number of troops to be maintained (*e*).

If the simple relation of a single nation with a single other nation be considered, perhaps the matter would not be very difficult. The misfortune is, that almost everywhere compound relations are found. On the subject of troops, France says to England: Yes, I would voluntarily make with you a treaty of disarming, if there were only you; but it is necessary for me to have troops to defend me from the Austrians. Austria might say the same to France; but it is necessary to guard against Prussia, Russia, and the Porte. And the like allegation might be made by Prussia with regard to Russia.

Whilst as to naval forces, if it concerned Europe only, the difficulty might perhaps not be very considerable. To consider France, Spain and Holland as making together a counterpoise to the power of Britain—perhaps on account of the disadvantages which accompany the concert between three separate nations, to say nothing of the tardiness and publicity of procedures under the Dutch Constitution—perhaps England might allow to all together a united force equal to half or more than its own.

An agreement of this kind would not be dishonourable. If the covenant were on one side only, it might be so. If it regard both parties together, the reciprocity takes away the acerbity. By the treaty which put an end to the first Punic war, the number of vessels that the Carthaginians might maintain was limited. This condition, was it not humiliating? It might be: but if it were, it must have been because there was nothing correspondent to it on the side of the Romans. A treaty which placed all the security on one side—what cause could it have had for its source? It could only have had one, that is, the avowed superiority of the party thus incontestably secured; such a condition could only have been a law dictated by the conqueror to the party conquered—the law of the strongest. None but a conqueror could have dictated it; none but the conquered would have accepted it.

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(*e*) Precedents: (1) Convention of disarmament between France and Britain, 1787—this is a precedent of the measure or stipulation itself. (2) Armed neutrality code—this is a precedent of the mode of bringing about the measure, and may serve to disprove the impossibility of a general Convention among nations. (3) Treaty forbidding the fortifying of Dunkirk.



On the contrary, whatsoever nation should get the start of the other in making the proposal to reduce and fix the amount of its armed force would crown itself with everlasting honour. The risk would be nothing—the gain certain. This gain would be the giving an incontrovertible demonstration of its own disposition to peace, and of the opposite disposition in the other nation in case of its rejecting the proposal.

The utmost fairness should be employed. The nation addressed should be invited to consider and point out whatever further securities it deemed necessary, and whatever further concessions it deemed just.

The proposal should be made in the most public manner: it should be an address from nation to nation. This, at the same time that it conciliated the confidence of the nation addressed, would make it impracticable for the Government of that nation to neglect it, or stave it off by shifts and evasions. It would sound the heart of the nation addressed. It would discover its intentions and proclaim them to the world.

The cause of humanity has still another resource. Should Britain prove deaf and impracticable, let France, without conditions, emancipate her colonies, and break up her marine. The advantage even upon this plan would be immense, the danger none. The colonies I have already shown are a source of expense, not of revenue: of burthen to the people, not of relief. This appears to be the case, even upon the footing of those expenses which appear upon the face of them to belong to the colonies, and are the only ones that have hitherto been set down to their account. But in fact the whole expense of the marine belongs also to that account, and no other. What other destination has it? What other can it have? None. Take away the colonies, what use would there be for a single vessel, more than the few necessary in the Mediterranean to curb the pirates.

In case of a war, where at present (1789) would England make its first and only attack upon France? In the colonies. What would she propose to herself from success in such an attack? What but the depriving France of her colonies. Were these colonies—these bones of contention—no longer hers, what then could England do? What could she wish to do?

There would remain the territory of France; with what view

could Britain make any attack upon it in any way? Not with views of permanent conquest—such madness does not belong to our age. Parliament itself, one may venture to affirm, without paying it any very extraordinary compliment, would not wish it. It would not wish it, even could it be accomplished without effort on our part, without resistance on the other. It would not, even though France herself were to solicit it. No Parliament would grant a penny for such a purpose. If it did, it would not be a Parliament a month. No King would lend his name to such a project. He would be dethroned as surely and as deservedly as James the Second. To say, I will be King of France, would be to say, in other words, I will be absolute in England.

Well, then, no one would dream of conquest. What other purpose could an invasion have? The plunder and destruction of the country. Such baseness is totally repugnant, not only to the spirit of the nation, but to the spirit of the times. Malevolence could be the only motive—rapacity could never counsel it; long before an army could arrive anywhere everything capable of being plundered would be carried off. Whatever is portable could be much sooner carried off by the owners than by any plundering army. No expedition of plunder could ever pay itself (*f*).

Such is the extreme folly, the madness of war: on no supposition can it be otherwise than mischievous, especially between nations circumstanced as France and England. Though the choice of the events were absolutely at your command, you could not make it of use to you. If unsuccessful, you may be disgraced and ruined: if successful, even to the height of your wishes, you are still but so much the worse. You would still be so much the worse, though it were to cost you nothing. For not even any

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(*f*) This brings to recollection the achievements of the war from 1755 to 1763. The struggle betwixt prejudice and humanity produced in conduct a result truly ridiculous. Prejudice prescribed an attack upon the enemy in his own territory; humanity forbade the doing him any harm. Not only nothing was gained by these expeditions, but the mischief done to the country invaded was not nearly equal to the expense of the invasion. When a Japanese rips open his own belly, it is in the assurance that his enemy will follow his example. But in this instance the Englishman ripped open his own belly that the Frenchman might get a scratch. Why was this absurdity acted? Because we were at war; and when nations are at war something must be done, or at least appear to be done, and there was nothing else to be done. France was already stripped of all its distant dependencies.

colony of your own planting, still less a conquest of your own making, will so much as pay its own expenses.

The greatest acquisitions that could be conceived would not be to be wished for—could they even be attained with the greatest certainty and without the least expense. In war, we are as likely not to gain as to gain—as likely to lose as to do either: we can neither attempt the one, nor defend ourselves against the other, without a certain and most enormous expense.

✓ Mark well the contrast. All trade is in its essence advantageous—even to that party to whom it is least so. All war is in its essence ruinous; and yet the great employments of government are to treasure up occasions of war, and to put fetters upon trade.

Ask an Englishman what is the great obstacle to a secure and solid peace, he has his answer ready: It is the ambition, perhaps he will add the treachery, of France. I wish the chief obstacle to a plan for this purpose were the dispositions and sentiments of France. Were that all, the plan need not long wait for adoption!

Of this visionary project, the most visionary part is without question that for the emancipation of distant dependencies. What will an Englishman say, when he sees two French Ministers (*g*) of the highest reputation, both at the head of their respective departments, both joining in the opinion that the accomplishment of this event, nay, the speedy accomplishment of it, is inevitable, and one of them scrupling not to pronounce it as eminently desirable.

It would only be bringing things back on these points to the footing they were on before the discovery of America. Europe had then no colonies, no distant garrisons, no standing armies. It would have had no wars but for the feudal system, religious antipathy, the rage of conquest, and the uncertainties of succession. Of these four causes, the first is happily extinct everywhere, the second and third almost everywhere—and at any rate in France and England—the last might, if not already extinguished, be so with great ease.

The moral feelings of men in matters of national morality are still so far short of perfection that, in the scale of estimation, justice has not yet gained the ascendancy over force. Yet this prejudice may, in a certain point of view, by accident, be rather favourable to this proposal rather than otherwise. Truth, and the object of this essay, bid me to say to my countrymen, it is for you to begin the reformation—it is you that have been the greatest sinners. But the same considerations also lead me to say to them, you are the strongest among nations: though justice be not on your side, force is; and it is your force that has been the main cause of your injustice. If the measure of moral approbation had been brought to perfection, such positions would have been far from popular, prudence would have dictated the keeping them out of sight, and the softening them down as much as possible.

Humiliation would have been the effect produced by them on those to whom they appeared true—indignation on those to whom they appeared false. But, as I have observed, men have not yet learned to tune their feelings in unison with the voice of morality in these points. They feel more pride in being accounted strong than resentment at being called unjust: or, rather, the imputation of injustice appears flattering rather than otherwise when coupled with the consideration of its cause. I feel it in my own experience; but if I, listed as I am as the professed and hitherto the only advocate in my own country in the cause of justice, set a less value on justice than is its due, what can I expect from the general run of men?

PROPOSITION XIII.—That the maintenance of such a pacification might be considerably facilitated by the establishment of a Common Court of Judicature for the decision of differences between the several nations, although such Court were not to be armed with any coercive powers.

It is an observation of somebody's, that no nation ought to yield any evident point of justice to another. This must mean evident in the eyes of the nation that is to judge—evident in the eyes of the nation called upon to yield. What does this amount to? That no nation is to give up anything of what it looks upon as its rights—no nation is to make any concessions. Wherever

there is any difference of opinion between the negotiators of two nations, war is to be the consequence.

While there is no common tribunal, something might be said for this. Concession to notorious injustice invites fresh injustice.

Establish a common tribunal, the necessity for war no longer follows from difference of opinion. Just or unjust, the decision of the arbiters will save the credit, the honour of the contending party.

Can the arrangement proposed be justly styled visionary, when it has been proved of it that—

1. It is in the interest of the parties concerned.
2. They are already sensible of that interest.
3. The situation it would place them in is no new one, nor any other than the original situation they set out from.

Difficult and complicated conventions have been effectuated: for examples, we may mention—

1. The Armed Neutrality.
2. The American Confederation.
3. The German Diet.
4. The Swiss League.

Why should not the European fraternity subsist, as well as the German Diet or the Swiss League? These latter have no ambitious views. Be it so; but is not this already become the case with the former?

How then shall we concentrate the approbation of the people, and obviate their prejudices?

One main object of the plan is to effectuate a reduction, and that a mighty one, in the contributions of the people. The amount of the reduction for each nation should be stipulated in the treaty; and even previous to the signature of it, laws for the purpose might be prepared in each nation, and presented to every other, ready to be enacted as soon as the treaty should be ratified in each State.

By these means the mass of the people—the part most exposed to be led away by prejudices—would not be sooner apprised of the measure than they would feel the relief it brought them. They would see it was for their advantage it was calculated, and that it could not be calculated for any other purpose.

The concurrence of all the Maritime Powers, except England,



upon a former occasion, proved two points—the reasonableness of that measure itself, and the weakness of France in comparison with England. It was a measure, not of ambition, but of justice—a law made in favour of equality, a law made for the benefit of the weak. No sinister point was gained, or attempted to be gained, by it. France was satisfied with it. Why? Because she was weaker than Britain. She could have no other motive; on no other supposition could it have been of any advantage to her. Britain was vexed at it. Why? For the opposite reason—she could have no other.

Oh, my countrymen, purge your eyes from the film of prejudice; extirpate from your hearts the *black specks* of excessive jealousy, false ambition, selfishness, and insolence! The operations may be painful, but the rewards are glorious indeed. As the main difficulty, so will the main honour be with you.

What though wars should hereafter arise? The intermediate savings will not the less be so much clear gain.

Though in the generating of the disposition of war, unjust ambition has doubtless had by far too great a share, yet jealousy, sincere and honest jealousy, must be acknowledged to have had a not inconsiderable one. Vulgar prejudice, fostered by passion, assigns the heart as the seat of all the moral diseases it complains of. But the principal and more frequent seat is really the head; it is from ignorance and weakness that men deviate from the path of rectitude more frequently than from selfishness and malevolence. This is fortunate; for the power of information and reason over error and ignorance is much greater and much surer than that of exhortation and all the modes of rhetoric over selfishness and malevolence.

It is because we do not know what strong motives other nations have to be just, what strong indications they have given of the disposition to be so—how often we ourselves have deviated from the rules of justice—that we take for granted, as an indisputable truth, that the principles of injustice are in a manner interwoven into the very essence of the hearts of other men.

The diffidence which forms part of the character of the English nation may have been one cause of this jealousy. The dread of being duped by other nations—the notion that foreign heads are more able, though at the same time foreign hearts

are less honest, than our own—has always been one of our prevailing weaknesses. This diffidence has, perhaps, some connection with the *mauvaise honte* which has been remarked as commonly showing itself in our behaviour, and which makes public speaking and public exhibition in every line a task so much more formidable to us than to other people.

This diffidence may, perhaps, in part be accounted for from our living less in society and accustoming ourselves less to mixed companies than the people of other nations.

But the particular cast of diffidence in question—the apprehension of being duped by foreign Powers—is to be referred in part, and perhaps principally, to another cause—the jealousy and slight opinion we entertain of our Ministers and public men. We are jealous of them as our superiors, contending against us in the perpetual struggle for power; we are diffident of them as being our fellow-countrymen, and of the same mould as ourselves.

Jealousy is the vice of narrow minds; confidence the virtue of enlarged ones. To be satisfied that confidence between nations is not out of nature where they have worthy Ministers, one need but read the account of the negotiation between De Wit and Temple as given by Hume. I say by Hume—for as it required negotiators like De Wit and Temple to carry on such a negotiation in such a manner, so it required a historian like Hume to do it justice. For the vulgar among historians know no other receipt for writing that part of history than the finding out whatever are the vilest and basest motives capable of accounting for men's conduct in the situation in question, and then ascribing it to those motives without ceremony and without proof.

Temple and De Wit, whose confidence in each other was so exemplary and so just; Temple and De Wit were two of the wisest, as well as most honourable, men in Europe. The age which produced such virtue was, however, the age of the pretended Popish plot, and of a thousand other enormities which cannot now be thought of without horror. Since then the world has had upwards of a century to improve itself in experience, in reflection, in virtue. In every other line its improvements have been immense and unquestioned. Is it too much to hope that France and England might produce, not a Temple and a

De Wit—virtue so transcendent as theirs would not be necessary—but men who, in happier times, might achieve a work like theirs with less extent of virtue?

Such a Congress or Diet might be constituted by each Power sending two deputies to the place of meeting, one of these to be the principal, the other to act as an occasional substitute.

The proceedings of such Congress or Diet should be all public.

Its power would consist (1) in reporting its opinion;

(2) in causing that opinion to be circulated in the dominions of each State.

Manifestos are in common usage. A manifesto is designed to be read either by the subjects of the State complained of, or by other States, or by both. It is an appeal to them. It calls for their opinion. The difference is that in that case nothing of proof is given; no opinion regularly made known.

The example of Sweden is alone sufficient to show the influence which treaties, the acts of nations, may be expected to have over the subjects of the several nations, and how far the expedient in question deserves the character of a weak one, or the proposal for employing and trusting to it that of a visionary proposal.

The war commenced by the King of Sweden against Russia was deemed by his subjects, or at least a considerable part of them, offensive, and, as such, contrary to the Constitution established by him with the concurrence of the States. Hence a considerable part of the army either threw up their commissions or refused to act, and the consequence was the King was obliged to retreat from the Russian frontier and call a Diet.

This was under a Government commonly, though not truly, supposed to be changed from a limited monarchy, or rather aristocracy, to a despotic monarchy. There was no act of any recognised and respected tribunal to guide and fix the opinion of the people. The only document they had to judge from was a manifesto of the enemy couched in terms such as resentment would naturally dictate, and therefore none of the most conciliating—a document which had no claim to be circulated, and of which the circulation, we may be pretty well assured, was

prevented as much as it was in the power of the utmost vigilance of the Government to prevent it.

(3) After a certain time, in putting the refractory State under the ban of Europe.

There might, perhaps, be no harm in regulating, as a last resource, the contingent to be furnished by the several States for enforcing the decrees of the Court. But the necessity for the employment of this resource would, in all human probability, be superseded for ever by having recourse to the much more simple and less burthensome expedient of introducing into the instrument by which such Court was instituted a clause guaranteeing the liberty of the Press in each State, in such sort that the Diet might find no obstacle to its giving, in every State, to its decrees and to every paper whatever, which it might think proper to sanction with its signature, the most extensive and unlimited circulation.

PROPOSITION XIV.—That secrecy in the operations of the Foreign Department in England ought not to be endured, being altogether useless and equally repugnant to the interests of liberty and peace.

The existence of the rule which throws a veil of secrecy over the transactions of the Cabinet with foreign Powers I shall not take upon me to dispute. My objection is to the propriety of it.

Being asked in the House of Lords by Lord Stormont (*h*) about secret Articles, the Minister for Foreign Affairs refuses to answer. I blame him not. Subsisting rules, it seems to be agreed, forbid reply. They throw a general veil of secrecy over the transactions of the Cabinet with foreign Powers. I blame no man for the fault of the laws. It is these laws that I blame as repugnant to the spirit of the Constitution and incompatible with good government.

I take at once the boldest and the broadest ground. I lay down two propositions:—

1. That in no negotiation, and at no period of any negotiation, ought the negotiations of the Cabinet in this country to be kept

secret from the public at large, much less from Parliament and after inquiry made in Parliament (i).

2. That whatever may be the case with preliminary negotiations, such secrecy ought never to be maintained with regard to treaties actually concluded.

In both cases, to a country like this, such secrecy is equally mischievous and unnecessary.

It is mischievous. Over measures of which you have no knowledge you can apply no control. Measures carried on without your knowledge you cannot stop, how ruinous soever to you, and how strongly soever you would disapprove of them if you knew them. Of negotiations with foreign Powers carried on in time of peace, the principal terminations are treaties of alliance, offensive or defensive, or treaties of commerce. But by one accident or other everything may lead to war.

That in new treaties of commerce, as such, there can be no cause for secrecy is a proposition that will hardly be disputed. Only such negotiations, like all others, may eventually lead to war; and everything connected with war, it will be said, may come to require secrecy.

But rules which admit of a Minister's plunging the nation into a war against its will are essentially mischievous and unconstitutional.

It is admitted that Ministers ought not to have it in their power to impose taxes on the nation against its will. It is admitted that they ought not to have it in their power to maintain troops against its will. But by plunging it into war without its knowledge they do both.

Parliament may refuse to carry on a war after it is begun. Parliament may remove and punish the Minister who has brought the nation into a war.

Sorry remedies these. Add them both together, their efficacy is not worth a straw. Arrestment of the evil and punishment of the authors are sad consolations for the mischief of the war, and of no value as remedies in comparison with prevention. Aggressive war is a matter of choice: defensive, of necessity. Refusal of the means of continuing a war is a most precarious

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(i) It lies upon the other side, at least, to put a case in which want of secrecy may produce a specific mischief.



remedy—a remedy only in name. What, when the enemy is at your doors, refuse the materials for barricading them?

Before aggression, war or no war depends upon the aggressor. Once begun, the party aggrieved acquires a vote. He has his negative upon every plan for terminating the war. What is to be done? Give yourself up without resistance to the mercy of a justly exasperated enemy? But this or the continuance of the war is all the choice that is now left. In what state of things can this remedy be made to serve? Are you unsuccessful? The remedy is inapplicable. Are you successful? Nobody will call for it.

Punishment of the authors of the war—punishment, whatever it may be, to the personal adversaries of the Ministers—is no satisfaction to the nation. This is self-evident. But what is closer to the purpose and not less true is that, in a case like this, the fear of punishment on such an account is no check to them; of a majority in Parliament they are in possession, or they would not be Ministers. That they should be abandoned by this majority is not in the catalogue of events that ought to be looked upon as possible, but between abandoning them and punishing them there is a wide difference. Lord North was abandoned in the American War; he was not punished for it. His was an honest error in judgment, unstained by any *mala fide* practice and countenanced by a fair majority in Parliament. And so may any other impolitic and unjust war be. This is not a punishing age. If bribe-taking, oppression, peculation, duplicity, treachery, every crime that can be committed by statesmen sinning against conscience, produce no desire to punish, what dependence can be placed on punishment in a case where the mischief may so easily happen without any ground for punishment? Mankind are not yet arrived at that stage in the track of civilisation. Foreign nations are not yet considered as objects susceptible of an injury. For the citizens of other civilised nations we have not so much feeling as for our negroes. There are instances in which Ministers have been punished for making peace (*k*): there are none where they

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(*k*) The fate of Queen Anne's last Ministry may be referred in some degree to this cause, and owing to the particular circumstances of their conduct they perhaps deserved it: see the Report of the Secret Committee of the

have been so much as questioned for bringing the nation into war; and if punishment had been ever applied on such an occasion it would be not for the mischief done to the foreign nation, but purely for the mischief brought upon their own—not for the injustice, but purely for the imprudence.

It has never been laid down as a rule that you should pay any regard to foreign nations; it has never been laid down that you should stick at anything which would give you an advantage in your dealings with foreign nations. On what ground could a Minister be punished for a war, even the most unsuccessful, brought on by any such means? “I did my best to serve you,” he would say. “The worse the measure was for the foreign nation, the more I took upon me; the greater, therefore, the zeal I showed for your cause; the event has proved unfavourable. Are zeal and misfortune to be represented as crimes?”

A war unjust on the part of our own nation, by whose Ministers it is brought on, can never be brought on but in pursuit of some advantage which, were it not for the injustice towards the foreign nation, it would be for our interests to pursue. The injustice and the danger of retaliation being on all hands looked upon as nothing, the plea of the Minister would always be: “It was *your* interest I was pursuing.” And the uninformed and unreflecting part of the nation, that is, the great body of the nation, would echo to him: “Yes, it was our interest you were preserving.” The voice of the nation on these subjects can only be looked for in newspapers. But on these subjects the language of all newspapers is uniform: “It is we that are always in the right, without a possibility of being otherwise. Against us other nations have no rights. If, according to the rules of judging between individual and individual, we are right, we are right by the rules of justice: if not, we are right by the laws of patriotism, which is a virtue

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House of Commons in the year 1715. The great crime of the Earl of Bute was making peace. The Earl of Shelburne was obliged to resign for having made peace. The great crime of Sir R. Walpole was keeping the peace. The nation was become tired of peace. Walpole was reproached with proposing half-a-million in the year for secret service money. His errors were rectified, war was made, and in one year there was laid out in war four times what he had spent in the ten years before.

more respectable than justice." Injustice, oppression, fraud, lying, whatever acts would be crimes, whatever habits would be vices, if manifested in the pursuit of individual interests, when manifested in pursuit of national interests become sublimated into virtues. Let any man declare, who has ever read or heard an English newspaper, whether this be not the constant tenor of the notions they convey. Party on this one point makes no difference. However hostile to one another on all other points, on this they have never but one voice—they write with the utmost harmony. Such are the opinions, and to these opinions the facts are accommodated as of course. Who would blush to misrepresent when misrepresentation is a virtue?

But newspapers, if their voice make but a small part of the voice of the people, the instruction they give makes on these subjects the whole of the instruction which the people receive.

Such being the national propensity to error on these points, and to error on the worst side, the danger of parliamentary punishment for misconduct of this kind must appear equivalent to next to nothing, even in the eyes of an unconcerned and cool spectator. What must it appear, then, in the eyes of Ministers themselves, acting under the seduction of self-partiality, and hurried on by the tide of business? No, the language which a Minister on such occasions will hold to himself will be uniformly this: "In the first place, what I do is not wrong; in the next place, if it were, nothing should I have to fear from it."

Under the present system of secrecy Ministers have, therefore, every seduction to lead them into misconduct, while they have no check to keep them out of it. And what species of misconduct? That in comparison of which all others are but peccadillos. Let a Minister throw away £30,000 or £40,000 in pensions to his creatures. Let him embezzle a few hundred thousand for himself. What is that to fifty or a hundred millions, the ordinary burthen of a war? Observe the consequence. This is the Department of all others in which the strongest checks are needful. At the same time, thanks to the rules of secrecy of all the Departments, this is the only one in which there are no checks at all. I say, then, the conclusion is demonstrated. The principle which throws a veil of secrecy over the proceedings of the Foreign Department of the Cabinet is pernicious in the

highest degree, pregnant with mischiefs superior to everything to which the most perfect absence of all concealment could possibly give rise.

There still remains a sort of inexplicit notion which may present itself as secretly furnishing an argument on the other side. Such is the condition of the British nation. Peace and war may be always looked upon as being to all human probability in good measure in her power. When the worst comes to the worst, peace may always be had by some unessential sacrifice. I admit the force of the argument; what I maintain is that it operates in my favour. Why? It depends upon two propositions—the matchless strength of this country, and the uselessness of her foreign dependencies. I admit both. But both operate as arguments in my favour. Her strength places her above the danger of surprise, and above the necessity of having recourse to it to defend herself. The uselessness of her foreign dependencies proves *a fortiori* the uselessness of engaging in wars for their protection and defence. If they are not fit to keep without war, much less are they worth keeping at the price of war. The inutility of a secret Cabinet is demonstrated by this short dilemma. For offensive measures Cabinet secrecy can never be necessary to this nation; for defence it can never be necessary to any.

My persuasion is that there is no State whatever in which any inconveniences capable of arising from publicity in this Department would not be greatly overbalanced by the advantages, be the State ever so great or ever so small, ever so strong or ever so weak, be its form of government pure or mixed, single or confederated, monarchical, aristocratical, or democratical. The observations already given seem in all these cases sufficient to warrant the conclusion.

But in a nation like Britain the safety of publicity, the inutility of secrecy in all such business, stands upon peculiar grounds. Stronger than any other two nations, much stronger, of course, than any *one*, its superiority deprives it of all pretence of necessity of carrying points by surprise. Clandestine surprise is the resource of knavery and fear, of unjust ambition combined with weakness. Her matchless power exempts her from the

one; her interest, if her servants could be brought to be governed by her evident interests, would forbid the other.

Taking the interest of the first servant of the State, as distinct from, and opposite to, the nation, clandestinity may undoubtedly be, in certain cases, favourable to the projects of sceptred thieves and robbers. Without taking the precautions of a thief, the Great Frederic might probably enough not have succeeded in the enterprise of stealing Silesia from her lawful Sovereign. Without an advantage of this sort, the triple gang might, perhaps, not have found it quite so easy to secure what they stole from Poland. Whether there can or cannot exist occasions on which it might, in this point of view, be the interest of a King of Great Britain to turn highwayman is a question I shall waive; but a proposition I shall not flinch from is, that it never can be the interest of the nation to abet him in it. When those sceptred sinners sold themselves to the service of Mammon, they did not serve him for naught; the booty was all their own. Were we (I speak as one of the body of the nation) to assist our King in committing a robbery upon France, the booty would be his. He would have the naming of the new places, which is all the value that in the hands of a British robber such booty can be to anybody. The privilege of paying for the horse and pistols is all that would be ours. The booty would be employed in corrupting our confidential servants, and this is the full and exact amount of what we should get by it.

Conquests made by New Zealanders have some sense in them. While the conquered fry the conquerors fatten. Conquests made by the polished nations of antiquity—conquests made by Greeks and Romans—had some sense in them. Lands, movables, inhabitants, everything, went into the pocket. The invasions of France in the days of the Edwards and the Henrys had a rational object. Prisoners were taken, and the country was stripped to pay their ransom. The ransom of a single prisoner, a Duke of Orleans, exceeded one-third of the national revenue of England.

Conquests made by a modern despot of the Continent have still some sense in them. The new property, being contiguous, is laid on to his old property; the inhabitants, as many as he thinks fit to set his mark upon, go to increase his armies; their



substance, as much as he thinks fit to squeeze from them, goes into his purse.

Conquests made by the British nation would be violations of common sense, were there no such thing as justice. They are bungling imitations of miserable originals, bating the essential circumstances. Nothing but confirmed blindness and stupidity can prompt us to go on imitating Alexander and Cæsar, and the New Zealanders, and Catherine and Frederic, without the profit.

If it be the King alone who gets the appointment to the places, it is a part of the nation, it may be said, that gets the benefit of filling them. A precious lottery! Fifty or one hundred millions the cost of the tickets: so many years' purchase of ten or twenty thousand a year the value of the prizes. This if the scheme succeed. What if it fail?

I do not say there are no sharers in the plunder; it is impossible for the head of a gang to put the whole of it into his own pocket. All I contend for is that robbery by wholesale is not so profitable as by retail. If the whole gang together pick the pockets of strangers to a certain amount, the ringleaders pick the pockets of the rest to a much greater. Shall I, or shall I not, succeed in persuading my countrymen that it is not their interest to be thieves?

"Oh, but you mistake," cries somebody. "We do not now make war for conquests, but for trade." More foolish still. This is a still worse bargain than before. Conquer the whole world, it is impossible you should increase your trade one halfpenny; it is impossible you should do otherwise than diminish it. Conquer little or much, you pay for it by taxes; but just so much as a merchant pays in taxes, just so much he is disabled from adding to the capital he employs in trade. Had you two worlds to trade with, you could only trade with them to the amount of your capital, and what credit you might meet with on the strength of it. This, being true of each trader, is so of all traders. Find a fallacy in this short argument if you can. If you obtained your new right of trading given you for nothing, you would not be a halfpenny the richer. If you paid for it by war or preparations for war, by just so much as you paid for these you would be the poorer.

The good people of England, along with the right of self-government, conquered prodigious right of trade. The revolution was to produce for them, not only the blessings of security and power, but immense and sudden wealth. Year has followed after year, and to their endless astonishment the progress to wealth has gone on no faster than before. One piece of good fortune still wanting they have never thought of—that on the day their shackles were knocked off some kind sylph should have slipped a few thousand pounds into every man's pocket. There is no law against my flying to the moon. Yet I cannot get there. Why? Because I have no wings. What wings are to flying, capital is to trade.

There are two ways of making war for trade—forcing independent nations to let you trade with them, and conquering nations, or pieces of nations, to make them trade with you. The former contrivance is to appearance the more easy, and the policy of it the more refined. The latter is more in the good old way, and the King does his own business and the nation's at the same time. He gets the naming to the places; and the nation cannot choose but join with him, being assured that it is all for the sake of getting them the trade. The places he lays hold of, good man, only out of necessity, and that they may not go a-begging; on his own account he has no more mind for them than a new-made bishop for the mitre, or a new-made speaker for the chair. To the increase of trade both these plans of war equally contribute. What you get in both cases is the pleasure of the war.

The legal right of trading to part of America was conquered by France from Britain in the last war. What have they got by it? They have got Tobago, bankruptcy, and a revolution for their fifty millions. Ministers, who to account for the bankruptcy are forced to say something about the war, call it a national one. The King has not got by it, therefore the nation has. What has it got? A fine trade, were there but capital to carry it on. With such room for trade, how comes there to be no more of it? This is what merchants and manufacturers are putting themselves to the torture to account for. The sylph so necessary elsewhere was still more necessary to France, since,

over and above her other work, there was the fifty millions spent in powder and shot to replace.

The King of France, however, by getting Tobago, probably obtained two or three thousand pounds' worth of places to give away. This is what he got, and this is all that anybody got for the nation's fifty millions. Let us go on as we have begun, strike a bold stroke, take all their vessels we can lay hold of without a declaration of war, and who knows but what we may get it back again. With the advantages we now have over them, five times the success they are so pleased with would be but a moderate expectation. For every fifty millions thus laid out our King would get in places to the amount, not of two or three thousand pounds only, but, say, of ten, fifteen, or twenty thousand pounds. All this would be prodigious glory, and fine paragraphs and speeches, thanksgiving and birthday odes might be sung and said for it; but for economy I would much rather give the King new places to the same amount at home, if at this price his Ministers would sell us peace.

The conclusion is that, as we have nothing to fear from any other nation or nations, nor want anything from other nations, we can have nothing to say to other nations, nor to hear from them, that might not be as public as any laws. What, then, is the veil of secrecy that enwraps the proceedings of the Cabinet? A mere cloak for wickedness and folly; a dispensation to Ministers to save them from the trouble of thinking; a warrant for playing all manner of mad and silly pranks, unseen and uncontrolled; a licence to play at hazard with their fellows abroad, staking our lives and fortunes upon the throw.

What, then, is the true use and effect of secrecy? That the prerogatives of place may furnish an aliment to petty vanity; that the members of the *circulation* may have, as it were, a newspaper to themselves; that under favour of the monopoly, ignorance and incapacity may put on airs of wisdom; that a man, unable to write or speak what is fit to be put into a newspaper, may toss up his head and say, "I don't read newspapers," as if a parent were to say, "I don't trouble my head about schoolmasters"; and that a Minister, secure from scrutiny in that quarter, may have the convenient opportunity, upon occasion, of filling the posts with obsequious cyphers

instead of effective men. Anything will do to make a Minister whose writing may be written for him, and whose duty in speaking consists in silence.

This much must be confessed. If secrecy, as against the nation, be useless and pernicious to the nation, it is not useless and pernicious with regard to its servants. It forms part of the *douceurs* of office—a perquisite which will be valued in proportion to the insignificance of their characters and the narrowness of their views. It serves to pamper them up with notions of their own importance, and to teach the servants of the people to look down upon their masters.

Oh! But if everything that were written were liable to be made public—were published—who would treat with you abroad? Just the same persons as treat with you at present. Negotiations, for fear of misrepresentation, would perhaps be committed somewhat more to writing than at present. And where would be the harm? The King and his Ministers might not have quite such copious accounts, true or false, of the tittle-tattle of each Court, or they must put into different hands the tittle-tattle and the real business. And suppose your head servants were not so minutely acquainted with the mistresses and buffoons of Kings and their Ministers, what matters it to you as a nation, who have no intrigues to carry on, no petty points to compass?

It were an endless task to fill more pages with the shadows that might be conjured up in order to be knocked down. I leave that task to any that will undertake it. I challenge party men, I invite the impartial lovers of their country and mankind, to discuss the question, to ransack the stores of history and imagination as well as history, for cases, actual or possible, in which the want of secrecy in this line of business can be shown to be attended with any substantial prejudice.

As to the Constitution, the question of Cabinet secrecy has never been tried by the principles of the Constitution—has never received a decision. The good old Tudor and Stuart principles have been suffered to remain unquestioned here. Foreign politics are questions of State. Under Elizabeth and James nothing was to be inquired into, nothing was to be known; everything was matter of State. On other points the veil has been torn away;

but with regard to these, there has been a sort of tacit understanding between Ministers and people.

Hitherto war has been the national rage; peace has always come too soon, war too late. To tie up the Ministers' hands and make them continually accountable would be depriving them of numberless occasions of seizing those happy advantages that lead to war; it would be lessening the people's chance of their favourite amusement. For these hundred years past Ministers, to do them justice, have generally been more backward than the people; the great object has rather been to force them into the war than to keep them out of it. Walpole and Newcastle were both forced into war.

It admits of no doubt, if we are really for war, and fond of it for its own sake, we can do no better than let things continue as they are. If we think peace better than war, it is equally certain that the law of secrecy cannot be too soon abolished.

Such is the general confusion of ideas, such the power of the imagination, such the force of prejudice, that I verily believe the persuasion is not an uncommon one. So clear in their notions are many worthy gentlemen that they look upon war, if successful, as a cause of opulence and prosperity. With equal justice might they look upon the loss of a leg as a cause of swiftness.

Well, but if it be not directly the cause of opulence, it is indirectly. From the successes of war come, say they, our prosperity, our greatness. Thence the respect paid to us by Foreign Powers; thence our security. And who does not know how necessary security is to opulence?

No, war is, in this way, just as unfavourable to opulence as in the other. In the present mode of carrying on war—a mode which it is in no man's power to depart from—security is in proportion to opulence. Just so far then as war is, by its direct effects, unfavourable to opulence, just so far is it unfavourable to security.

Respect is a term I shall beg leave to change; respect is a mixture of fear and esteem, but for constituting esteem force is not the instrument, but justice. The sentiment really relied upon for security is fear. By respect then is meant, in plain English, fear. But in a case like this fear is much more adverse



than favourable to security. So many as fear you join against you till they think they are too strong for you, and then they are afraid of you no longer. Meantime they all hate you, and jointly and severally they do you as much mischief as they can. You, on your part, are not behindhand with them. Conscious or not conscious of your own bad intentions, you suspect theirs to be still worse. Their notion of your intentions is the same. Measures of mere self-defence are naturally taken for projects of aggression. The same causes produce, on both sides, the same effects; each makes haste to begin for fear of being forestalled. In this state of things, if on either side there happen to be a Minister, or a would-be Minister, who has a fancy for war, the stroke is struck, and the tinder catches fire.

At school the strongest boy may perhaps be the safest. Two or more boys are not always in readiness to join against one. But though this notion may hold good in an English school, it will not bear transplanting upon the theatre of Europe.

Oh! But if your neighbours are really afraid of you, their fear is of use to you in another way; you get the turn of the scale in all disputes. Points that are at all doubtful they give up to you of course. Watch the moment, and you may every now and then gain points that do not admit of doubt. This is only the former old set of fallacies exhibited in a more obscure form, and which, from their obscurity only, can show as new. The fact is, as has been already shown, there is no nation that has any points to gain to the prejudice of any other. Between the interests of nations there is nowhere any real conflict; if they appear repugnant anywhere, it is only in proportion as they are misunderstood. What are these points? What points are these which, if you had your choice, you would wish to gain of them? Preferences in trade have been proved to be worth nothing; distant territorial acquisitions have been proved to be worth less than nothing. When these are out of the question, what other points are there worth gaining by such means.

Opulence is the word I have first mentioned, but opulence is not the word that would be first pitched upon. The repugnancy of the connection between war and opulence is too glaring; the term "opulence" brings to view an idea too simple, too intelligible, too precise. Splendour, greatness, glory, these are

terms better suited to the purpose. Prove first that war contributes to splendour and greatness, you may persuade yourself it contributes to opulence, because when you think of splendour you think of opulence. But splendour, greatness, glory, all these fine things, may be produced by useless success, and unprofitable and enervating extent of dominion obtained at the expense of opulence; and this is the way in which you may manage so as to prove to yourself that the way to make a man run the quicker is to cut off one of his legs. And true enough it is that a man who has had a leg cut off, and the stump healed, may hop faster than a man who lies in bed with both legs broken can walk; and thus you may prove that Britain is in a better case after the expenditure of a glorious war than if there had been no war, because France or some other country was put by it into a still worse condition.

In respect, therefore, of any benefit to be derived in the shape of conquest or of trade, of opulence or of respect, no advantage can be reaped by the employment of the unnecessary, the mischievous, and unconstitutional system of clandestinity and secrecy in negotiation.

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# KANT'S PERPETUAL PEACE.

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## INTRODUCTION.

“THE life-history of Kant,” writes Heine, “is not easy to describe; for he had neither life nor history. He lived a mechanical, almost impersonal bachelor existence in a quiet corner of Königsberg. The cathedral clock did not perform its daily task with less passion or greater regularity. Everything had its appointed time. The neighbours knew it was half-past three when Immanuel Kant, in his grey coat and cane in hand, left his house and moved towards the little row of lime trees, which is still called the Philosopher’s Walk. Eight times up and down he strolled, whatever the weather. What a contrast between the outer life of the man and his world-convulsing thoughts.” Immanuel Kant was born in 1724 at Königsberg, and in the whole course of his long life never went further than a few miles from his native city. His father was a strap maker in the town, and both he and his wife had come under the influence of the religious revival, the outcome of the Pietist movement, one of the leaders of which, F. A. Schultze, had settled in Königsberg, and became professor of theology in 1732. A school, known as the Collegium Fredericianum, had been founded in Königsberg by the Pietists in the interests of religion, and to this the young Kant was sent at the age of eight. There he remained until 1740, when he proceeded to the University. Six years later his father died, depriving Kant, who was the fourth in a family of eleven, of any further means of support at the University. For nine years, therefore, he was forced to take up the position of resident tutor in the houses of various families in the neighbourhood of Königsberg. In 1755 he was licensed

as a lecturer at the University, but failed to obtain the professorship of philosophy for which he applied in 1756, or of logic and metaphysics, which fell vacant two years later. He lectured on mathematics, physics, logic and philosophy, but the remuneration he received was barely sufficient to provide him with the necessities of life, and in 1766 he accepted the post of sub-librarian at the Schloss Library at a salary of sixty thalers (about £10) a year. In 1770, however, the professorship of logic and metaphysics was again vacant, and Kant, whose reputation had now spread outside Königsberg, was appointed to the post. This he retained until his death in 1804, despite an offer of work, which would have considerably amplified his means, at the University of Halle, at that time the principal university of Prussia. For thirty years his method of life was one of monotonous regularity. He rose at five, and prepared his lectures until seven. From seven till nine he lectured daily, after which he continued to work until one, when he dined almost invariably in the company of guests. These remained with him until he took his afternoon walk (which is said to have been omitted only upon the day on which he first received a copy of Rousseau's *Emile*), and on his return he once more resumed his work until ten o'clock, when he retired to bed.

Such was the uneventful life of the man, from whom, to quote once more from Heine, "the burghers of Königsberg would have shrunk more than from the executioner, had they known the full significance of his thoughts." Kant's earliest writings, dating from the years of his absence from the University, were wholly concerned with the physical sciences. In 1763 he began to write upon philosophical subjects, and from 1765 he confined himself almost entirely to their study. His three great works of critical philosophy, the *Critique of Pure Reason*, of *Practical Reason*, and of *Judgment*, appeared in 1781, 1788, and 1790 respectively, but before the publication of this last work Kant had already given evidence of his increasing interest in the philosophical aspect of politics. The first works in which his views on this topic were given to the world appeared in 1784, when he published two essays entitled "What is Enlightenment?" and "The idea of Universal History from a cosmo-political point of view." The ideas expressed in these works were further developed and

expanded in two treatises of 1793, "Religion within the bounds of pure reason" and "Theory and Practice," while his position as a political philosopher was summed up in the essay on "Perpetual Peace" published in 1795 (with additions in 1796), and in the "Philosophy of Law," appearing in this latter year as part of a general treatise on morals, already foreshadowed by the publication in 1785 of the "Foundation of the Metaphysics of Ethics." Interest in the problems of political science remained with him to the end, and in his last two works of importance, the "Conflict of the Faculties" and the "Anthropology," published in 1798, he restated the principles to which he had already given expression in his previous works.

While an interest in political theory was natural to one concerned, as Kant had been, with the deepest ethical and philosophical problems, the cause of the predominant nature of that interest in his later years must be sought in the events of the age in which he lived. The political ideal of the Age of Enlightenment was the enlightened despot. It was easier to enlighten one than many, and, with reason enthroned as supreme in the government of States, time alone was needed for the realisation of the universal happiness of mankind. The Physiocrats believed that with the use of absolute power, they could, in five years, set France free, and that nothing would remain to hinder her people from that progress towards perfectibility of which all men were capable. In the Europe of the day, Frederick the Great, Catherine II., and Joseph II. posed as embodiments of the monarchical ideal. Nor could men be blamed if they saw in Prussian history its justification. Under a succession of rulers, devoting themselves to the service of the State, the country had been raised from a position of insignificance to one of the first importance in Europe. The government under Frederick the Great was the object of admiration of all advocates of the new theory, and French philosophers made their home in Berlin. But the task of the monarch was not conceived as limited to the spread of rational ideas within the State. In the words of Kant, 'in conformity with so-called enlightened views of policy, the highest honour of the state is thought to consist in the constant aggrandisement of its power by whatever means.' Disregard of moral rules in international relations was not the peculiar

characteristic of statesmen of the eighteenth century; yet it is not without significance that a project for the publication in 1780 of a collection of European treaties concluded since 1740 had to be abandoned owing to the opposition of the sovereigns of the States concerned, and it was not strange that the annexation of Silesia and the partitions of Poland should make acceptable, in Prussia at least, the doctrine that success is its own justification.

The end of the century witnessed the challenge to these ideals in the revolutions in America and in France. By 1789, however, they were no longer represented by the government in Prussia. Frederick the Great was succeeded in 1786 by his nephew Frederick William II., and the new king early came under the influence of the Rosierucians, the avowed enemies of the *Aufklärung* ("Enlightenment"). Already in 1788 he showed his divergence from the principles of his predecessor by the issue of the Religious Edict, directed against the freedom of theological and philosophical discussion, and a censorship of all papers and pamphlets more rigorous than that of the previous reign was established in the following year. The outbreak of the Revolution was hailed with enthusiasm by many in the literary and university circles of the Empire, but the Prussian Court was no longer Francophile in its sympathies, and the fear of political propaganda still further determined the king in the pursuance of a reactionary policy. In 1791 a circular was despatched by the Emperor, with the warm approval of the Prussian king, ordering the princes to punish the authors of seditious writings, the circulation of the *Moniteur* was forbidden, and an attempt made to exclude French news. Hitherto the revolution in France had not been regarded as a justification for foreign intervention. But by 1792 the difficulties raised by the abolition of the feudal privileges of the German princes in Alsace and the presence of the émigrés on German soil had made a policy of complete non-interference almost impossible. Though Austria, under Leopold II., still desired to remain neutral, Frederick William was becoming anxious for active intervention on behalf of Louis XVI. An offensive and defensive alliance was concluded between Austria and Prussia, and the French declaration of war upon Austria in 1792 was welcomed by Frederick William as an opportunity for



Prussia to enter the struggle. From the first the course of the war was unfavourable to the allies. There was little unity amongst the German States, and French propaganda was not wanting as a further cause of division. Frederick William's interests were turned once more to his eastern frontier, and this revived inevitably the traditional rivalry of Prussia and Austria. The fall of Robespierre strengthened the hands of those already anxious to bring to a close an unpopular war, and in 1795 peace was concluded with France at the Treaty of Basle. During the remainder of Kant's life Prussia took no further part in the war. Frederick William died in 1797, and his successor, Frederick William III., though a man of more liberal opinions, adhered to the neutral policy of his father.

Kant regarded the revolution as the greatest event in his life and one full of hope for the future of mankind. Though among the greatest of rationalists, himself the child of the *Aufklärung*, yet his belief in reason and the rationality of man went hand in hand with a belief no less strong in liberty. His political ideals approximated more nearly to those of the revolutionaries than to those of the philosophers of the *Aufklärung*. Yet, since he had already formulated the fundamental articles of his political creed before the outbreak of the revolution, he neither, on the one hand, subscribed entirely to the "ideas of 1789," nor, on the other, lost faith in the ideals which they represented, as did many whose first enthusiasm, born of the revolution, died away or was converted into antagonism as the revolution pursued its course. His reputation as a thinker was already made when events in France drove men to reconsider the justification of their political ideals, and it was but natural that many should look to him for guidance and advice. From 1790 political science is a theme of all his works. His own interest in events in France never waned, though he never shared the blind optimism as to its progress which characterised so many of its first supporters. In the words of a friend, his was "the impersonal sympathy of a citizen of the world and of an independent philosopher, observing the construction of what should be a perfect constitution on the basis of reason, with the same expectant interest as a scientist watches the progress of an experiment designed to verify a weighty theory." "At critical

moments he was so anxious for the papers that he would have walked miles to meet the post, and nothing gave him greater pleasure than to be given authentic private information." At first his writings escaped condemnation by the government, but in 1794 his essay on "Religion within the bounds of Reason" failed to pass the test of censorship. With the entry of Prussia into the war he had no sympathy. It was his conviction that States should be left free to solve their own internal problems, and in spite of his often expressed denial of the legitimacy of revolutions, he held it to be no part of the duty of his country to enter the war, and was whole-hearted in his approval of her withdrawal in 1795. The events of the remaining years of his life failed to dim his faith either in the ultimate moral effect of the revolution or in the moral progress of the world.

✓ The starting-point for the understanding of Kant's political theory is his conception of man as a free moral being, whose ideal is the perfection of himself according to the rational principle within him, that is, by obedience to the law of his being. He is, however, free, since he himself, and no external authority, is the author of the law which he obeys. Yet true freedom can only be attained when submission to the law is complete, and this, owing to the dual nature of man, it is impossible to achieve in fact. It is the ideal towards which it is his duty to strive. His will to obey the law is thwarted by his desire to be led by his passions, and perfection is reached when all such conflict disappears, and the will freely obeys the self-imposed moral law. This, the good will, is the only absolute good, and it follows, therefore, that the only true aim of civil society, indeed its only justification, is to make possible the exercise of the good will, and to remove all hindrance to the gradual approximation of man to his ideal. In the pre-social state, or state of nature, this is not possible. For while it is not necessary to assume that this is a state of perpetual war, yet since it is a state in which everyone is free to follow his own inclinations and there is no regulator of society, men can never be safe from the violence of each other and so from hindrances to the realisation of their freedom. The State is therefore necessary. But as man cannot part with his freedom without making impossible his own self-realisation, such limits as are imposed upon him by the creation of the State must

be imposed by himself. Further, such limits must be imposed upon all alike; their object is to secure that each should exercise his freedom in such a way as is consistent with the freedom of others; man must always establish the same relation of himself to others as of others to himself. Hence there arises the idea of an original contract, which, according to Kant, is an idea only, necessary for explaining the origin of the civil State and not to be regarded as an historical fact. Something, however, is given up by these self-imposed limitations. This, says Kant, is merely "wild, lawless freedom," which man surrenders "in order to find it again undiminished in a dependence regulated by law." In its positive aspect the object of the State so formed is to provide the conditions under which a man's progress towards his ideal becomes possible; it is the source of his rights and the maintainer of laws which embody those conditions. In its negative aspect its function is to "keep self-conscious beings from collision with each other," to remove hindrances to the exercise of true freedom. In the fulfilment of this function the use of force is permissible. Men may be compelled to come within the State, since their remaining in the state of nature constitutes a hindrance to the true freedom of others, and such use of force is itself consistent with freedom.

Man possesses, however, certain inalienable rights, which he can never surrender and which must be the basis of all political organisation. These are liberty, equality, and personal independence. The right to liberty consists in the right of each to seek his happiness in his own way. It is the function of the State to promote justice, not happiness, and the worst of all forms of despotism is a paternal government which treats its subjects as children unable to choose what is good for them. The right of equality implies an equal opportunity for men to realise themselves in accordance with their capacities and fortune, and is inconsistent with the existence of class privileges and hereditary prerogatives. Through his personal independence man has the right to a share in the legislative authority of the State, though Kant does not carry his theory to a logical conclusion, for women, children, domestic servants and other dependent wage-earners are not possessed of this right.

If these rights are the primary condition of all State organi-

sation, it follows that a republic is the only true form of government. In this the supreme legislative power must be founded upon the united will of the people. Their function is to promulgate general laws of universal application: that is, in the interest of no class or privileged body of persons. It is for the executive to issue particular laws as occasion requires, and in no case must the executive be identified with the legislative power. A monarchical form of government is therefore not inconsistent with republicanism, whose distinguishing characteristic is the separation of the executive and legislature, by which the executive is ultimately controlled. The judiciary must be separate from both. The co-operation of these three powers, Kant maintained, would secure the autonomy of the State, that is, its maintenance in accordance with the laws of freedom. It is throughout its negative rather than its positive aspect which is emphasised by him. The limits of its powers are strictly defined. As it is no part of man's duty to aim at his neighbour's moral well-being, but merely at his happiness, so law is concerned only with the external acts of man, and not with the motives from which those acts spring, that is, with his moral character. Laws are, however, necessary, just as the State is necessary, to make possible the "good life," but actually, though universal principles of right are their basis and criterion, there is no necessary connection between law and morality. From another point of view, however, there can be no antithesis between morals and politics. It is the duty of the statesman to base his actions upon these universal principles, which are immutable, and not upon the principles of utility or opportunism. Just as the only guide for the individual in moral perplexity is to ask himself whether the act he proposes can be universalised, so the criterion of all particular laws should be the probability of assent by all the citizens of the State. Kant admits that due weight must be given to the lessons of experience and the demands of the moment, but this must never be interpreted to mean that the actions of statesmen are not bound by the ordinary considerations of morality.

The perfect State, however, is not the ultimate ideal, although a condition of its realisation. It is of little avail to abolish the condition of violence between men if such is still the dominant

characteristic of the relations between States. If war is not always present there is no effectual guarantee that it may not at any moment break out. Yet the analogy does not carry us very far. Since each is a sovereign State, no common authority over all States can be set up, and there can be no compulsion, as in the case of the individual, to leave the state of nature and to become a part of a world-State. For the maintenance of the sovereignty of the people unimpaired within the State is essential to the maintenance of the freedom of the individuals composing it, and nothing is legitimate which infringes upon this. Similarly there can be no question of rights between States, since there is no common authority to be the source of such rights. It is wrong, therefore, to speak of war as unjust, nor can war claim to decide questions of right, "for although hostilities are brought to an end by a treaty of peace, the state of war still remains." Nevertheless, the common rights of men as individuals set certain limits to the actions of the victorious State. It has no right to treat as slaves the people of the conquered State, nor to incorporate that State into its own dominions, for such action would imply that one State was to the other as superior to inferior, which cannot be. If, therefore, we cannot aim at the establishment of a common authority to which all States must submit, the only ideal consistent with freedom is that of a federation of free States, entered into through a common acceptance of the principles of public right. ✓

If the use of force be excluded as a means of attaining this ideal, what may be done to ensure that any progress towards it may be made? The first step must be the perfection of the republican constitution within the individual States, for where the supreme control is vested in the people war will not lightly be declared. But this approximation towards the ideal can only proceed by slow degrees. In some States the principle of a republican constitution has not been accepted, and in no case is resistance to the supreme authority justified. Such a right would imply a contradiction in terms, the setting up of two sovereigns. The legislative power, be its origin what it may, commands obedience from all subjects. All alterations in the constitution should proceed from the sovereign power by way of reform, and it is the duty of statesmen to keep the ideal ever



before them, and to direct their State along the road to its attainment in the manner most suited to its capacities and needs. Yet, though revolutions be illegitimate, when they have occurred their results must be accepted, and the newly-established sovereign commands obedience no less than the one it has displaced. Further, if violent measures within the State be illegal, still less has one State the right to interfere with the internal affairs of another. No attempt must be made to force a republican form of government upon another State, or to take the side of one party in an internal constitutional struggle. Such action would be a violation of the rights of the people of each State to constitute the supreme authority within the State. Nevertheless, if the establishment of republican constitutions is the essential condition for securing perpetual peace, there are certain practical measures which may even now be taken to improve the relations between States, although it is vain to hope that such reforms will be complete until the primary condition is fulfilled. Among the hindrances to the establishment of a condition of peace are the maintenance of standing armies, the aggrandisement of one State at the expense of the independence of another, the intentional exclusion in so-called treaties of peace of the settlement of differences likely to lead to future wars, the use of dishonourable methods in war, as the employment of spies and assassins. In the task of preparation for the time of perpetual peace the philosopher has a share no less than the statesman. It cannot be expected that "kings will philosophise or that philosophers will become kings," but rulers should be willing to learn from philosophers, to whom perfect liberty to express their views should be accorded. Moreover, though the time is not ripe for the federation of free States which is the ideal, there is nothing to hinder States from forming treaties of alliance between one another for the purpose of counteracting the tendencies towards war. There would be no guarantee for the stability of such alliances; they would be of a negative rather than of a positive character, yet until such time as men were ready to put into practice what they believe in theory to be true, they would at least be an attempt to give some expression to the idea of public right.

What, then, is the hope, if there be any, that the ideal will

some day be attained? First, its realisation is essential for the satisfaction of the demands of man's moral nature, for so long as the state of war between States exists, so long is the complete attainment of freedom for man impossible. Yet the mere existence of a purpose in the workings of nature would not in itself be sufficient ground for the assertion that progress is actually being made towards its realisation, and Kant finds his second ground for hope in the evidence of history: that is, of the way in which nature has actually worked in the past. Thus the existence of a world-State under a supreme authority is seen to be impossible no less than undesirable owing to differences such as language and religion which separate the peoples of the earth. On the other hand they are drawn together by mutual interests, which are better served by a state of peace than a state of war. Nor has war and discord itself been wholly evil, for, other reasons apart, the natural rivalry of people would have been sufficient to cause them to form themselves into a State, and experience of the evils of war would have made some form of federation inevitable. Thus Kant concludes that the world is progressing towards the ideal: history is the revelation of that progress and progress the justification of past history. It is none the less the moral duty of every man to assist in the solution of the supreme problem for the race, "the establishment of civil society administering right," and, as its necessary corollary, perpetual peace.

Such, in outline, is the political theory of Kant, and its main principles are to be found in all his works which have political science for their theme. In all these his debt to other writers is plain. The theories of contract and of natural rights, ridiculed by Hume and Bentham, were amongst the chief characteristics of eighteenth-century political thought. So also was the belief that enlightened reason alone could produce the perfect system of law, positive laws being merely "truths deduced by reason from principles of natural law," and the legislator could proceed with disregard alike of history or psychology. In this view the potentialities of law for securing the happiness of mankind were infinite, and a monarchical form of government the most efficient means for its realisation. Yet for Kant the motive of all political thinking was the moral perfection of the individual. Man being endowed with freedom and with reason, he cannot rest content

with mere material well-being; he demands a share in the means by which it is secured. This belief in liberty and its connection with morality drew Kant into closer sympathy with Rousseau than with any other political thinker. Of his debt to him Kant was fully conscious. "There was a time," he writes, "when I believed that knowledge constituted the worth of man and I despised the ignorant masses. Rousseau put me right. I learnt to honour men, and I should regard myself of far less use than the common workman if I did not believe that my reflections might do something to restore the rights of humanity." His influence is apparent throughout all Kant's work. For both, consent is the only rational basis of the State. The doctrine of the sovereignty of the people, the theory of the relation between the executive and legislature are common to both thinkers. But Kant was no blind follower of Rousseau. While it cannot be denied that he had attained to a truly organic conception of the State, his emphasis is laid throughout upon the supreme value of individual freedom, and not as with Rousseau upon the conception of the State as a moral personality, superior to the individual. Thus while the collectivism of Rousseau led him to a theory of excessive State interference, Kant is concerned rather with the limits of State action, though a doubt may be permitted whether in practice the State as conceived by Kant would have provided a more adequate security for personal liberty than did that of Rousseau. With Kant, moreover, there is always present a strong instinct for the preservation of order. There is no need, as with Rousseau, to enquire into the origins of States to account for their legitimacy, for that would destroy their foundations and produce a state of anarchy. There can never be any right to resistance to the supreme authority. As was said by his friend and biographer, "Kant was in no sense a revolutionary. He would have been among the first and most eager to oppose any attempt at a coup d'état."

In their essays upon perpetual peace these divergences are no less evident than the inspiration which the one derived from the other. For Rousseau, no less than for Kant, to find the means to establish perpetual peace was the goal of all political thinking, and his own views were expressed in two essays, written in 1756 and published in 1762, as a commentary upon the project of the Abbé

de Saint Pierre. Like Kant he deprecated the idea of the world-State, and like him, too, he considered that all attempts to create it must end in failure. In federation only could the solution of the problem be found, and in some sense the States of Europe might already be regarded as forming a real society, united by a common heritage of customs, of religion, and of law. But just as Kant had emphasised the rights of the individual within the State, so is he careful of State rights within the confederation. These would be endangered by the establishment of any form of central authority; States must not be called upon "to submit to any legal constraint," the ideal is a federation of Free States. Rousseau, following St. Pierre, drew up a scheme for an alliance consisting of the chief States of Europe, representatives of which should constitute a supreme council, with the right to exercise force against any recalcitrant member of the league. So, too, Bentham, writing between 1786 and 1789, considered a supreme tribunal of justice as an indispensable condition for the success of his "Plan for an universal and Perpetual Peace." Kant's scheme is further differentiated from those of his predecessors by the absence of any political purpose, and of any direct relation to the practical problems of the Europe of his day. Earlier advocates of a league of States had justified their schemes by an appeal to such practical aims as the overthrow of the Turk or of the Habsburg power. Bentham, following Priestley and Mackintosh, advocated the surrender of all colonial dependencies. For in these he saw the chief cause of the rivalry between England and France, and this in its turn was the chief hindrance to the establishment of universal peace. Rousseau found the chief hope for the realisation of his ideal in the Germanic confederation, "a body redoubtable to foreigners by its extent and by the number and valour of its people; but useful to all by reason of its institution, which, by depriving it of the means and will to conquer, makes it the stumbling-block of conquerors." That Kant, too, found cause for hope in the existing condition of Europe cannot be denied. The revolution in France he regarded as a sure sign that the world was progressing towards the ideal. But it was upon the moral effects of the revolution that his attention was fixed. Progress in morality was the essential condition for the establishment of peace, the existence of the right motive both in

States and in individuals composing them the only sure guarantee for its maintenance. His essay on perpetual peace was, as he himself said, a philosophical sketch and not intended as a practical guide for the statesmen of his day. He made no claim to be a man of affairs; it was once said of him that "He could have governed neither State nor village nor even a poultry yard." An attempt was indeed made to bring him into touch with the Abbé Sieyès, in Lord Acton's judgment "the most original of the revolutionary thinkers," a political philosopher with unique opportunities for testing the worth of his speculations by practical experiment. But Kant made no reply to the invitation to enter into correspondence with the French thinker, and the project came to nothing.

The interest aroused by the essay cannot however be measured by its practical effect. A second edition was called for within a few weeks of publication. A French translation appeared in 1796 and portions were reprinted in the "Moniteur." In 1798 an English translation of a selection of Kant's shorter works, including the essay on Perpetual Peace, was published, and in the following year a translation of the Philosophy of Law. Nor was the essay without influence upon other German writers of the time. Kiesewetter, a lecturer in philosophy at Berlin and a pupil of Kant's, wrote of its reception there: "All right-thinking men owe you a debt of gratitude, and I wish I could tell you of the delight with which the best minds have read it." Goethe, too, in a letter to Schiller, expressed his appreciation of the work. Görres, a journalist and a leading spirit in the Rhineland movement for establishing an independent Cisrhenane Republic in federation with France, forwarded a plan for the establishment of a lasting peace, suggested by the essay of Kant, to the French Directory. Friedrich Schlegel, a prominent figure of the German Romantic movement, whose interest in politics was aroused by the revolution, from which his sympathies had not yet been alienated, published in 1796 an essay on Republicanism, suggested by, and in part in criticism of, Kant's work. <sup>Star</sup>Gefftz, the publicist and translator of Burke's "Reflections," attacked the teaching of Kant in an essay of his own entitled "Über den ewigen Frieden," published in 1800. Moreover, by the end of the century pupils of Kant might be found amongst the younger

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officials of the Prussian Government, which was showing itself not entirely unsympathetic to liberalism and reform. Yet it was not the work of Kant which was destined to be paramount in forming the political ideas of the new generation. Not until the humiliation of 1806 had convinced the nation of the need for action was Prussian interest in politics fully aroused, and it was ultimately to Hegel rather than to Kant that men turned. It has been maintained that Kant's political theory contains elements of inconsistency, that he really presupposes social unity as prior to the recognition of individual rights, for man does not stand towards the State as towards another individual, bound by reciprocal rights and limitations. The State, even if it be a republic, has power not possessed by the individual as such, else it could not secure him in his rights. But if this be so, it nevertheless remains true that with Kant the emphasis is always upon the individual, the realisation of whose moral perfection requires the State to regulate his relations with other men, but which is itself independent of the State. Hegel attacked Kant's teaching on the ground of his negative attitude towards freedom, his emphasis on duty rather than on rights, his individualism of which these doctrines were the result. For Hegel the State exists not merely as an institution for the guarantee of rights, that is of freedom, to its members. It is itself a self-conscious, ethical being, and man, by being taken up into the State, thereby attains to a condition of true freedom, which can only be found within the State. As an ethical being, yet superior in nature to the individuals of which it is composed, it is not limited by the ordinary restrictions of morality which bind individuals, nor can it ever acknowledge any authority superior to itself. War is the legitimate means of expression of its own individuality. Criticisms of a purely rational conception of the origin and nature of States found ready support in an age in which national feeling was becoming a dominating element in politics. Love of liberty gave way to the desire for the preservation of order, justified as the surest means for the prevention of war, and in the years following the death of Kant the philosophers who justified the exaltation of the national State were listened to more readily than the advocates of international federation in the interests of perpetual peace.



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## KANT'S PERPETUAL PEACE.

There used to be an inn in Holland with the sign of "Perpetual Peace," and on the signboard was depicted a graveyard. Whether the satire is aimed at all mankind, or especially at the rulers of States, or, may be, only at philosophers who dream this sweet dream, is a question that may here be left unanswered.

The present writer wishes to make one condition, *viz.*:—Since the practical politician adopts the attitude of looking down with great complacency on the theorist as a pedant, who with his ideas devoid of practical content can cause little danger to the State, which must, so they maintain, of necessity be guided by empirical principles; who may therefore be allowed under all circumstances to shoot all his bolts at once, without the statesman with his knowledge of the world permitting himself to be influenced by him, the latter must, even in case of dispute with the former, be logical enough not to scent out hidden danger to the State in the theorist's casually enunciated and publicly expressed opinions; through which saving clause the present writer expressly wishes to secure himself against any malicious interpretation.

### PARAGRAPH I.

#### *Containing the preliminary articles for perpetual peace between States.*

1. "No peace treaty is to be regarded as such, which has been made with the secret reservation of matter which would lead to a future war."

For in that case it would be merely an armistice, a truce in hostilities, not peace, which signifies the end of all hostilities, and, indeed, the addition of the adjective "perpetual" to the word "peace" is in itself a suspicious pleonasm. All existing causes of future war, though at present perhaps not known even to the peace makers, are wholly abolished through the peace treaty, with no matter how great keenness of vision or detective skill they may be unearthed from the archives. The



mental reservation of ancient pretensions, to be presented at some future date, which are not mentioned by either side at the present moment, because both are too exhausted to continue the war, combined with the evil intention to use the first favourable opportunity for this purpose, is Jesuitical casuistry and beneath the dignity of a Sovereign, just as to accede to such deductions is beneath the dignity of one of his Ministers, if one judges the matter as it is in itself.

But if the true honour of the State according to enlightened ideas on statecraft is thought to consist in ever-increasing power, no matter by what means it is attained, then, of course, the above judgment is seen to be academic and pedantic.

2. No independent State (small or great, size makes no difference in this respect) shall be acquirable by another by inheritance, exchange, purchase or deed of gift.

For a State is not (like, for instance, the soil on which it stands) a property (*patrimonium*). It is a society of people over which no one but itself has the right of command or of disposal. To embody as a graft into another State one that had its own roots as an independent growth is to end, as it were, its existence as a moral person and to make the latter into a thing, which is contrary to the idea of the original contract without which no right over a people is conceivable (a).

It is universally known into what danger bias towards this mode of acquisition has brought Europe—(it has never been practised in other continents)—in the most recent times, yes, even in our own day, for indeed States can even be joined by marriage; it is partly a new sort of industry to increase one's power by family unions without expenditure of force and partly a means of extending one's territory in the same way. The hiring of the troops of one State by another against any but a common enemy is to be regarded in the same light, for subjects are in this case used and wasted like things to be handled according to whim.

3. Standing armies (*miles perpetuus*) shall in time cease to exist.

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(a) A hereditary kingdom is not a State that can be inherited by another State. The right to rule it can be inherited by another physical person. The State thus acquires a new ruler—not the latter the State, that is, not in his capacity as ruler, *i.e.*, one who already possesses another State.

For they are a perpetual menace of war to other States, through their readiness always to appear armed for it. They incite these others to outbid each other in unlimited numbers of armed forces, and, as peace finally becomes more costly than a short war on account of the expenditure on armies, these themselves become the cause of wars of aggression undertaken in order to reduce this burden. In addition to this, to be hired to kill or to be killed appears to imply a use of men as machines and tools in the hand of another, which does not accord well with what we consider to be the rights of man when applied to our own persons. The voluntary exercise of citizens skilled in arms, undertaken periodically to insure the safety of themselves and of the State against attacks from without, is quite a different matter.

The amassing of treasure would in the same way be regarded by other States as a menace of war, and would be an incitement to anticipatory attacks, if the difficulty of estimating its size did not present this, for of the three forces—the might of armies, the strength of alliances, and the power of wealth, the last might well be regarded as the most reliable weapon for war.

4. No State debts shall be contracted for external State enterprises.

It is permissible to borrow money within or outside the State for enterprises of public utility (for the improvements of roads, new settlements, the building of repositories with a view to possible years of bad harvests), and an external loan in these circumstances is not a source of suspicion. But a credit system of debts growing beyond the point of vision yet always covered for any particular demand (since all the creditors never make their demands at the same moment)—the ingenious invention of a commercial people in this century—being a weapon used by rival Powers against each other, is a dangerous force; *viz.*:—a treasure for the pursuit of war, which exceeds the treasures of all the other States put together, and can never be exhausted except by the cessation of taxes, which must happen eventually, but is likely to be long delayed by reason of the stimulus to commerce due to repercussions on industry and trade. This facility for waging war, combined with the inclination of the rulers to do so, which appears to be inherent in human nature, is a great

hindrance to perpetual peace, to forbid which should be among the preliminary articles—the more so, since the eventually inevitable State bankruptcy must necessarily involve other innocent States in the catastrophe, and this would be a public injury to the latter. Consequently these others would be at least justified in forming alliances against such a State and its pretensions.

5. No State shall forcibly interfere with the constitution and government of another.

For what can justify it in this course? Perhaps the scandal it gives to the subjects of another State? On the contrary, the example of the great ills which a people has brought down on itself by its lawlessness may serve as a warning, and, moreover, the bad example given (*scandalum acceptum*) by one free person to another does not constitute an injury.

This does not apply, if a State, through its dissensions, were divided into two parts, each of which represented a separate State which laid claim to the whole; in this case to lend assistance to one of the parts could not be reckoned against a foreign State as interference in the constitution of the other, for a condition of anarchy would exist under these circumstances. So long, however, as this internal conflict is not decided, the interference of a foreign State would be an infraction of the rights of a people struggling with internal disease but independent of any other people, and would therefore be in itself a *scandalum acceptum*, and jeopardise the autonomy of all States.

3. No State when at war with another shall permit itself to use such methods as must render mutual trust in a future peace impossible, such as the appointment of assassins (*percussores*), poisoners (*venefici*), breach of capitulations, incitement to treason (*perduellio*) in the enemy country, etc.

Such are dishonourable stratagems. Some trust in the habit of mind of the enemy must be left, even in the midst of war, for otherwise no peace could be concluded and the hostilities would result in a war of extermination (*bellum internecinum*). For war is only the sad last resort in the natural state (where there is no court of justice with legitimate juridical power) of maintaining one's right by force; where neither of the parties can be called an unjust enemy (since even that implies a legal judgment), where therefore the result (as in a so-called judg-

ment of heaven) decides on whose side justice lies. Between States a punitive war cannot occur (*bellum punitivum*) because between them there is no relationship of Sovereign and subject: it follows from this that a war of attrition, where both sides may be extirpated together and with them all justice destroyed, would allow of perpetual peace only in the great churchyard of all humanity. Such a war, then, and consequently the use of methods that would lead to it, must of necessity be unpermissible. That the above-named practices do inevitably lead to this becomes clear, when we consider that these fiendish arts, being intrinsically base, once become customary, would not long remain confined within the limits of war, like, for example, the use of spies, where only the ineradicable baseness of others is exploited. On the contrary, they would be continued into the state of peace and thus completely destroy its purpose.

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While all the above-named laws are objectively (*i.e.*, as regards the rulers) laws of prohibition (*leges prohibitivae*) yet some of them are obligatory (*leges strictae*), valid in all different circumstances and demanding instant abolition of the abuses against which they are directed (1, 5 and 6), while others (as 2, 3 and 4) (*leges latae*), though not to be regarded as exceptions to the moral law, grant more subjective licence in practice under differing conditions, and permit of delay in giving them effect, without, however, losing sight of the purpose of this delay. Thus, the restoration of liberty to those States which have been bereft of it (under 2 of the above) must not be postponed till doomsday (or, as Augustus used to promise, till the Greek Calends), which would mean never, but may be delayed, in order not to be overhasty and therefore contrary to the very purpose of the law.

For the prohibition here concerns only the mode of acquisition which is no longer to be valid in the future; it does not concern the state of possession, which, though it has not really the requisite justification, was yet at the time of its inception held to be just by international public opinion (*b*).

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(b) Whether permissive laws (*leges permissivae*) can be thought to exist from the standpoint of pure reason, as well as positive laws (*leges praecep-*

I have here only wished in passing to draw the attention of exponents of natural law to the idea of a *lex permissiva*, which presents itself naturally to the systematising reason; especially as it is often made use of in civil (statutory) law, but with this difference, that the prohibition is treated independently, the permissive law being classed among the exceptions, instead of being as it should be, included in the law as a limiting condition thereof.

## PARAGRAPH II.

### *Containing the definitive articles for perpetual peace between States.*

The state of peace between neighbour nations is not a natural state (*status naturalis*), this being more usually a state of war—*i.e.*, if not always of actual hostilities yet always under menace of these. Peace must therefore be instituted; for the cessation of hostilities is no security for peace, and without guarantee from

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*tivae*) and prohibitions (*leges prohibitivae*) has hitherto been held in doubt, not without reason. For laws in general are based on the objective necessity in practice of certain actions, while permission implies contingency. Consequently a permissive law would contain an obligation to an action, to which no obligation is possible, and would therefore be a contradiction in terms, if the object of the law were the same in both cases. In the permissive law we have instanced, the above set-out prohibition concerns only the future acquisition of a right (*e.g.*, through inheritance), that which releases from this prohibition (*i.e.*, the permissive law) concerns the present state of possession. The latter may continue after the transition from the state of nature to the civic state in accordance with a permissive law of the natural state, because though unjustifiable it is yet an honest possession (*possessio putativa*), although a mode of acquisition similar to that which obtains in the case of a putative possession, when recognised as such in a state of nature, is prohibited after transition to the civic state; and the right to continue in possession would not obtain if a similar mode of acquisition had been employed in the civic state, but would have to cease instantly, on the discovery of its lack of justification, as being an injury.

Thus it is stated: this or that is prohibited, *e.g.*, Nos. 1, 2, 3, and so on—since permissive laws are added to the law not according to principles, but as contingencies arise in experience among actual cases; for otherwise the conditions would have had to be enunciated in the formula of the prohibition, which would at once have changed it into a permissive law. It is therefore regrettable that the ingenious prize essay set by the wise and thoughtful Count of Windischgratz, which laid especial stress on the latter, was so quickly abandoned.

For the possibility of such a formula resembling the mathematical is the only true touchstone of a logical legislation without which the so-called "*ius certum*" will ever remain but a pious aspiration. Without it there can only be general laws (*i.e.*, laws that are generally valid), not universal laws (*i.e.*, laws of general validity) as seems to be demanded by the idea of law.



one neighbour to another (possible only in legalised States) the one can challenge the other and forthwith treat him as an enemy (c).

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*First definitive article for perpetual peace.*

*The Civic Constitution shall in every State be Republican.*

This is the constitution established in accordance with—

1. The freedom of the members of a community (as men);
2. The dependence of all on a single universal law (as subjects); and
3. The equality of all (as citizens).

The only constitution proceeding from the idea of the original contract on which all just legislation of a nation should be based is the republican (d).

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(c) It is commonly accepted that it is not permissible to open hostilities against anyone who has not previously been the active aggressor, and this is quite right if both are already in a legalised State. For by entering into such a State each renders the other the requisite security, by virtue of the authority which has power over both. But the man, or nation, which abides in the natural state, robs me of this security, and as my neighbour wrongs me by this alone, although not actively, by the mere lawlessness of his State (*statu iniusto*) which is a perpetual menace to me; and I can oblige him either to enter into reciprocal legalised relations with me, or to leave my neighbourhood. Consequently the postulate underlying all the following articles is this: All men who can mutually influence each other must belong to some form of civic constitution.

Every just constitution, so far as concerns the people who belong to it, is in accordance with:—

1. The laws of citizenship of men forming a nation (*ius civitatis*).
2. The laws of nations in their mutual relations (*ius gentium*).
3. The laws of world citizenship in so far as men and States—standing in outward relation to each other and influencing each other—are to be regarded as citizens of a universal State which includes all humanity.

This classification is not arbitrary, but necessitated by the conception of perpetual peace. For if only one of these were physically situated in such a position as to be able to influence the others, and yet persisted in the natural state, this would introduce the possibility of war, to be released from which is our present purpose.

(d) Legal (consequently external) freedom cannot be defined (as is commonly done) as the right to do as one likes, provided one does no one a wrong. For what is the meaning of the word "right"? The authority for an action so far as it wrongs no one. The explanation would therefore run: Freedom is the authority for those actions which wrong no one. One wrongs no one (whatever one does) so long as one wrongs no one: an empty tautology. The term external (legal) freedom, as used by me, is to be explained thus:—It is the right to obey no external laws except those to which I have been able to give my sanction. In the same way external (legal) equality in a State is

Therefore this is in itself the one that, as regards the moral law, originally underlies every form of constitution; and only the question remains: is it the only one that can lead to perpetual peace?

✓ Now the republican constitution besides the purity of its origin, welling up from the clear source of the conception of right, offers the prospect of the desired end, *viz.*, perpetual peace, for the following reason:

If (as is inevitable in this form of constitution) the sanction of the citizens is necessary to decide whether there shall be war or not, nothing is more natural than that they would think long before beginning such a terrible game, since they would have to call down on themselves all the horrors of war, such as, to fight themselves; to pay the cost of war out of their own pocket; miserably to repair the devastation it leaves behind; and to add to the over-abundance of misery they would themselves have to

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that interrelationship of the citizens which prevents each from binding the other in any way, without at the same time himself becoming subject to the law which enables the other to bind him, in exactly the same way. (No explanation is necessary of the principle of legal dependence, for this is already contained in the idea of a constitution.) The validity of these rights which of necessity and inalienably belong to man, is confirmed and elevated by the just relationship of man himself towards higher beings (if he imagines the existence of these) because he imagines himself to be a citizen of a supersensory world in which the same principles obtain. For, as far as my freedom is concerned, I have no obligation even to the divine law, recognised by me through pure reason, except in so far as I have myself been able to give it my sanction (for I can arrive at a conception of the divine will only through the freedom of my own reason). As regards the principle of equality there is no reason why the greatest being that I can imagine in the universe under God (*e.g.*, a great Eon) should have the right to command while I have only the duty to obey, if I do my duty in my sphere as Eon in his. The reason that this principle of equality does not fit the relationship to God (as does that of freedom) is that this Being is the only one in respect to whom the conception of duty ceases.

In regard to the right of equality of all citizens as subjects, the answer to the question as to the justification of a hereditary aristocracy depends only on this:—Whether the rank granted by the State should take precedence before merit or whether the latter should take precedence before the former. Now it is evident that if rank is attached to birth it is quite uncertain whether merit, *i.e.*, skill and loyalty in office, will go with it—consequently it is just as if the right to be in authority were granted to favourites without any merit whatsoever, which the universal will of the people would never grant in an original contract—the foundation of all right. For a nobleman is not necessarily a noble man. In regard to the aristocracy of office (as one might call the rank of a higher magistracy, which would have to be attained by merit) the rank would not cling as an attribute to the person, but to the office, and the principle of equality is thus not infringed, because when a person resigned his office he would simultaneously resign his rank and return to the people.

bear the burden of debts which, owing to ever new wars, could never be paid off and would thus embitter peace itself; whereas in a constitution in which the subject is not a citizen, *i.e.*, one which is not republican, war is the least considerable matter in the world, because the Sovereign is not a member in the State, but its owner. He abates nothing of his feasts, sports, pleasure palaces or court festivities, etc., through the war, and can therefore declare war as a sort of pleasure-party on the slightest provocation, negligently leaving its justification, for decency's sake, to the diplomatic corps ever ready to hand for this service.

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To avoid confusion, which frequently occurs between the republican and the democratic constitution, the following must be remarked:

The different types of State (*civitas*) may be classified either according to who wields the supreme power in the State or according to the method by which the people is governed by its ruler, be he who he may. The first should properly be called the form of sovereignty (*forma imperii*), and only three are possible, *viz.*:—either one individual or a few in unison or all who constitute the civic community (State) may possess ruling powers (autocracy, aristocracy, and democracy). The second method of classification is by the form of government (*forma regiminis*) and concerns the manner in which the State uses its power and is either republican or despotic. This is founded in the constitution, *i.e.*, the act of general will through which a mob becomes a people.

The republican principle is that of separation of the executive from the legislative power; the despotic that of an arbitrary execution by the State of laws made by itself, *i.e.*, the ruler substitutes his own for the general will. Of the three types of State a democracy is necessarily a despotism in the true sense of the word, because it establishes an executive power in which *all* may decide about, which in some cases means against, *one* who does not give his sanction; that is to say, all, who yet are not really all, which is contrary to the general will and to the principle of liberty.

Every form of government which is not representative is an

amorphism, because the legislative and executive power can no more be combined simultaneously in the same person than the universal in the major premise of a syllogism can contain the subsumption of the particular in the minor premise.

Although the other two forms of constitutions are faulty in so far as they allow of the possibility of despotism, yet it is at least possible that they might adopt a form of government in the spirit of the representative system; for instance, Frederick II, at any rate, said that he was only the servant of the State (*e*), whereas in a democratic government this becomes impossible, because all want to be the rulers.

One can, therefore, say, the smaller the personnel of the State (the number of rulers), and the greater, on the other hand, their representativeness, the more the constitution renders republicanism possible, and it can hope through gradual reforms finally to rise to that. For this reason it is more difficult to reach this only perfect constitution in an aristocracy than in a monarchy, but impossible in a democracy except by violent revolution.

The people are far more concerned with the mode of government (*f*) than with the type of constitution (although very much depends, too, on this, and on its greater or lesser suitability to its purpose). The representative system is essential to the State if it is to conform to the moral law; for in this alone a republican

(*e*) The high titles often given to rulers (*e.g.*, the anointed of the Lord—the administrator of the Divine Will on earth and God's deputy) have been denounced as gross and dizzying flatteries; but, as it seems to me, without reason. Far from making the ruler arrogant, they should rather humble him to the soul, if he has sense (which one must at least assume), and reflects that he has undertaken an office too great for any man, *viz.*, the most holy which God has on earth, to administer the rights of man and not to violate this apple of God's Eye in the slightest degree must be his constant preoccupation.

(*f*) Mallet du Pau boasts in his sonorous but empty language of having after many years' experience finally become convinced of the truth of Pope's well-known saying: "For forms of government let fools contest. Whatever's best administered is best."

If this means: the best managed government is managed best, he has, as Swift says, cracked a nut and got a maggot for his pains; but if it means that it is also the best form of government, *i.e.*, constitution, it is fundamentally untrue; for examples of good government prove nothing about the form of government. Who has ever ruled better than a Titus or Marcus Aurelius, and yet one left a Domitian the other a Commodus as successor; which would have been impossible with a good constitution, because their unsuitability for the position was known early enough and the strength of the ruler great enough to exclude them.

form of government is possible without which it would be despotic and violent, be the constitution what it may.

None of the ancient so-called republics knew this, and they therefore inevitably relapsed into despotism, which under the sovereignty of a single individual is the most tolerable of all.

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*Second definitive article for perpetual peace.*

*The Law of Nations must rest on a Federation of Free States.*

Nations considered as States can be judged like single individuals, who, in their natural state (*i.e.*, in independence of external laws), do injury to each other by their mutual proximity alone. Each may and should demand of the other, in order to secure his own safety, that he should enter with him into a constitution resembling the civic, in which the rights of each are guaranteed. This would constitute a confederation of States which yet would not have to be an international State.

There is here an anomaly: because every State contains in itself the relationship of a Sovereign (who legislates) to a subject (who obeys, *viz.*, the people), while if many nations constituted one State they would be only one nation which contradicts our premise, since we have here to consider the reciprocal rights of nations, inasmuch as they are separate nations and are not to be fused into one.

Just as we despise savages for their attachment to their lawless liberty, and for their preference for perpetual fighting among themselves rather than for submission to a legitimate constraint to be established by themselves, *i.e.*, for licence rather than for reasonable liberty, regarding this with deep contempt and stigmatising it as brutal, uncouth and a bestial degradation of humanity, in just the same way, one might imagine, civilised nations (each constituting an independent State) should hasten to escape from such a villainous condition the sooner the better. Instead of this, every State sets its majesty (for the majesty of a people is an inconsistent term) just in this, to be subject to no external legitimate constraint, and the glory of its ruler consists in having many thousands at his command to let themselves be sacrificed



for an affair that does not concern them, without himself needing to run the slightest risk (*g*).

The difference between European and American savages lies chiefly in this—that while many tribes of the latter have been entirely consumed by their enemies, the former know of a better method of utilising their conquered enemies than to eat them, preferring to increase the number of their subjects and consequently of their tools for even more widespread wars.

Considering the wickedness of human nature, which can be seen undisguised in the free relationship between peoples (though well masked through the constraint of government in the legalised civic State), it is very curious that it has not yet been possible wholly to expunge the word justice from the politics of war as being pedantic, and that so far no State has dared to declare itself openly for the latter opinion. For Hugo Grotius, Pufendorf, Vattel and many others (all poor comforters) are still naïvely cited in justification of war, although their codex, composed as it is from the philosophic or diplomatic standpoint, has not nor can have the slightest legal force (because States as such do not stand under a common external constraint), though, on the other hand, there is not a single instance of any State being induced to renounce its project through arguments reinforced by the testimony even of such weighty men. This verbal homage that every State pays to the moral law proves that there is a greater moral disposition to be found in mankind, though dormant at present, some day in spite of all to master his evil genius (whose existence he cannot deny) and to hope the same of others. For otherwise the word justice would never be uttered by States that wish to fight each other unless as a mockery, in the spirit in which that Gallic prince declared:

“It is the privilege granted by nature to the strong, that the weak must obey him.”

Since the means by which States pursue their rights can never be by litigation as in a Court of justice, but must always be by war, there should be a league of a special sort, which one could call the league of peace (*foedus pacificum*), which would differ

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(*g*) Thus a Bulgarian prince replied to the Greek Emperor, who kindly offered to settle their dispute by a duel: “A smith who owns tongs will not take the red-hot iron from the fire with his hands.”

from a peace pact (*pactum pacis*) in that the one puts an end to one war, while the other seeks to end all wars. For rights cannot be decided by war and its favourable result—victory, and a peace treaty, though ending the present war, does not end the state of war, since it remains possible to find ever fresh pretexts for it, nor can it be said that the pretexts are altogether unjust, since in this condition each is judge of his own cause.

Now, although the same cannot be thought to apply in equal degree to States under the law of nations as applies to men in a condition of lawlessness under the law of nature, *viz.*, that they must emerge from this condition because as States they already possess an internal moral constitution, and have therefore out-grown constraint applied from without and devised to bring them into a legalised constitution with a broader basis according to the conceptions of right held by others—nevertheless reason from the throne of the Supreme moral law-giving power unconditionally condemns war as a means of deciding right, and makes of peace an immediate duty. But peace can never be established or secured without a special international treaty. The league of peace would not be concerned with the acquisition of power by any State. Its exclusive object would be to maintain and guarantee the liberty of an independent State and simultaneously of other confederated States, without compelling them, as would be necessary for men in the natural state, to become subject to the constraint of public laws.

The practicability (objective reality) of this idea of federalism, which is gradually to extend to all States and so lead to perpetual peace, can be demonstrated. For when fortune so disposes that a powerful and enlightened people can constitute themselves a republic (which by its nature lends itself to perpetual peace) it becomes a centre of federal union for other States. These unite with it and thus secure international peace in accordance with the law of nations and by successive similar alliances the union gradually extends further and further. When a people says: "There shall be no war among us, for we will unite to form a State *i.e.*, set up a supreme legislative, executive and juridical power, which shall settle our disputes peacefully," the decision is perfectly comprehensible. But when a State says: "There shall be no war between me and other States, although I recognise no

supreme legislative Power who secures my right and whose right I secure," it is quite incomprehensible on what it imagines that it bases its confidence in securing its right, unless it is on the expedient of the civic confederation of societies, *viz.*, the free federalism, which reason must necessarily add to the conception of the law of nations, if there is to be any meaning whatsoever in the conception.

The conception of the law of nations as containing the right to war is really meaningless, for this right is supposed to be based on the one-sided principle of deciding what is right by force, not on universally valid, external laws, which limit the freedom of each in the same degree; unless, indeed, we are to understand by it that people who think in this way deserve their fate if they mutually exterminate each other, and so win perpetual peace in the broad grave which covers all the horrors of violence together with their instigators. For States having relations with one another there can reasonably be no other method of escaping from the lawless condition which connotes only wars than by renouncing their uncivilised, lawless freedom, like private individuals, and subjecting themselves to compulsory public laws, thus forming an international State (*civitas gentium*) which would gradually extend and finally include all the peoples of the world.

Since, however, they are absolutely opposed to this by reason of their conception of the law of nations, and consequently repudiate in practice what they accept in theory, to stem the tide of man's unrighteous and malignant predisposition, the positive idea of a world republic must be replaced, unless all hope is to be renounced, by the negative expedient of an ever-extending confederation, existing to prevent war, yet with the enduring risk of its proving ineffective. (*Furor intus—fremit horridus ore cruento.*—Virgil (*h*).)

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(*h*) After the conclusion of a war, at the time of the peace treaty, it would well become a people that a day of penance should follow the thanksgiving festival to pray God in the name of the State for mercy for the great sin persisted in by mankind, *viz.*, the sin of not accepting a legalised constitution in relation to other nations, but through pride in their independence to prefer to resort to the barbarous method of war, although this does not attain its object of according justice to each State. The festivals arranged during a war to return thanks for a victory, the hymns sung to the Lord of Hosts, in true Israelitic fashion, stand in no less sharp contrast to the moral idea of the Father of humanity, because they add to the indifference shown towards

*Third definitive article for perpetual peace.*

*World citizenship shall be limited to conditions of universal hospitality.*

There is no more question of philanthropy here than there was in previous sections, the question is one of right and therefore hospitality means the right of a foreigner not to be treated with hostility by mere reason of his arrival on foreign soil. The natives may turn him away—if this can be done without his perishing—but so long as he behaves peaceably they may not show hostility towards him. A foreigner cannot claim the right of a guest (a special benevolent treaty would be needed to give him, for a certain time as it were, the “freedom of the house”), but only the right of a visitor. This right to offer himself as a companion pertains to all mankind by virtue of the communal possession of the earth’s surface. Since this is a sphere, the peoples cannot be scattered in infinity, but must in the last resort endure each other’s proximity. Furthermore, originally no one had more right than another to be in any one particular place. Uninhabitable portions of this surface, the sea and deserts, divide this community, but in such wise that the ship or the camel (ship of the desert) make it possible to approach across these ownerless tracts and to exploit the right to the earth’s surface common to all mankind in the interests of commerce. The breach of hospitality committed on sea coasts, *e.g.*, of the Barbaries, such as to rob ships in neighbouring seas, or to make slaves of stranded crews, or in the deserts (Arabian Bedouins), where nomadic tribes consider they have the right to plunder any who approach them, is contrary to natural law. But the right of the stranger to hospitality, that is, the *permis de séjour*, is conditioned by the possibility of commerce with the original inhabitants

In this way distant continents may come into peaceful relations, which are finally publicly legalised, bringing mankind at last nearer to a cosmopolitan constitution.

If one compares with this the inhospitable behaviour of the civilised, primarily commercial, States of our own Continent, one

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the international method of pursuing their right—sad enough in itself—their joy in having annihilated so many people or their happiness.

is horrified at the injustice they show in their visits to foreign countries and peoples, since visiting appears to be to them synonymous with conquering. America, the Negro countries, the Moluccas, the Cape, etc., were on their discovery regarded as countries that belonged to no one, for the natives were entirely disregarded. Into India they introduced on the pretext of merely establishing trading centres a foreign soldiery, and, with this, oppression of the natives, instigation of the different States to widespread wars, famine, rebellion, treachery and the whole litany of all the evils which can burden mankind.

China and Japan, having given such guests a trial, have therefore wisely forbidden entrance (and the latter even approach) to all European nations except the Dutch, whom, however, they treat as prisoners, segregating them from the natives. The worst (or from the point of view of the moral judge perhaps the best) of all this is, that they gain no profit from their violence, that all these trading companies stand on the point of imminent ruin, that the West Indies, the seat of the most cruel and premeditated slavery, yield no real profit, only indirectly serving a not very laudable object, *viz.*, the training of sailors for fleets of war, and thus the waging of renewed wars in Europe—and these are powers that make a great to do about righteousness and, though drinking evil like water, claim to be regarded as the chosen people in the paths of piety.

Since the rapidly spreading, more or less close communion of the peoples of the earth has reached this point, that injustice in one place is felt in all, the conception of cosmopolitan law is not a phantastic, extravagant idea of morality; on the contrary, it is a necessary supplement to the unwritten codex to civic law and to the law of nations as well as to the universal rights of mankind in general. And only if it can be put into practice dare we flatter ourselves that we are gradually drawing closer to perpetual peace?

#### ADDENDUM I.

##### *Of the guarantee of perpetual peace.*

This guarantee is rendered by nothing less than that great artist nature, whose mechanical course visibly demonstrates the purpose of harmonising the discord of humanity—even against



their will. We call nature destiny when we consider the necessity of laws whose cause is unknown to us; but when we consider her purposiveness in the course of the world as evidence of the deep wisdom of a higher cause, which is directed to the objective teleological aim of mankind and predetermines the course of the world, we call her providence (i).

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(i) In the mechanism of nature to which man as a sensory being belongs, a disposition is evident which indeed is fundamental for existence and which we can comprehend only by attributing it to the predetermined purpose of a Creator. This predetermination we call by different names according to its different aspects. In general we speak of divine providence; regarding the inception of the world as its work, we talk of creative providence (*providentia conditrix, semel iussit semper parent*, Augustin). When we observe the purposiveness of the laws which preserve the world in its course, we speak of a ruling providence (*providentia gubernatrix*): further, in regard to special ends, which cannot be foreseen by man but are surmised from results, we use the term "a directing providence" (*providentia directrix*). Finally, regarding certain events as divine purposes, we no longer talk of providence but of predestination (*directio extraordinaria*). To claim to recognise this, however, is foolish arrogance on man's part, for it postulates miracles (though the events are not called so), and, no matter how pious and humble the words used in these cases, it is illogical and presumptuous to infer a special principle of causation from a single occurrence, calling this occurrence an end in itself and not merely the natural mechanical by-product of another end which is quite unknown to us.

In the same way the classification of providence viewed from the standpoint of the material world, in which it is concerned with sensory objects, into general and special, is false and self-contradictory (e.g., when we maintain that providence cares for the preservation of the different species of creation but leaves the individual to chance); for it is called general so that no single thing shall be conceived as excluded from its workings. Possibly the classification of providence considered formally according to the manner of its working has been meant here:—*viz.*, ordinary (e.g., the annual death and resurrection of nature with the changing seasons), and extraordinary (e.g., the tidal conduction of wood to the Arctic coasts, where it cannot grow, for the benefit of the inhabitants, who could not live without it); these phenomena easily admit of a physico-mechanical explanation (e.g., the wood growing on the banks of rivers in temperate zones falls into the current and is carried onwards, possibly by the Gulf Stream), yet we must not neglect the teleological explanation which points to the foresight of a wisdom directing nature. The view held in the schools of a divine concurrence and co-operation in the sensory world must be relinquished. For it is in the first place self-contradictory to pair dissimilars (*gryphes iungere equis*) and to allow him who is himself the complete cause of the changes in the world to supplement his own predetermining providence during the course of the world (thus presupposing that this had been defective), e.g., by saying that next to God the doctor cured the patient, as if the latter lent his assistance to providence. For *causa solitaria non iuvat*. God is the Creator of the doctor and all his remedies, and therefore the result must be attributed solely to Him, if one wishes to approach the supreme cause, theoretically incomprehensible to us. Or one may attribute it solely to the doctor, if we include this occurrence in the sequence of causes explicable by the order of nature. Secondly, such a mode of thought destroys all certain principles in judging of an effect. But in the moral practical sense, directed entirely to the supersensory, the conception of a divine concurrence is quite in place and even necessary, e.g., the belief that God will, if our

We cannot actually recognise or even deduce the working of providence from the artistry of nature, but we can and must add the conception by thought (as we conceive purpose to underlie the forms of things in general) in order to form the conception of its possibility by analogy with human works of art.

The idea of providence in relation to and in harmony with the moral purpose is directly inspired by reason. It is theoretically an extravagant idea, but in practice (*e.g.*, in regard to the idea of the duty of perpetual peace and the use of the mechanism of nature to this end) it is dogmatic, and its objective reality well founded.

The use of the word "nature" when, as here, it is a question of theory rather than of religion, is more appropriate to the limits of man's reason. It is also more modest than to talk of providence as if we understood it, arrogantly assuming the wings of Icarus in order to approach the mystery of its unfathomable purpose, for we conceive that in nature the relation of an effect to its cause must be confined within the limits of possible experience.

Before we define this guarantee more accurately, it will be necessary first to examine the condition which nature has contrived for the actors on her great stage and which in the end necessitates her guarantee of peace. But, first, as to the manner of her guarantee.

Her provident arrangement consists in this:

- (1) that she has provided for men in all regions of the earth, that they can live there;
- (2) that she has dispersed them through war everywhere, even into the most inhospitable zones, in order to populate these;
- (3) that she has compelled them—again through war—to enter into more or less legalised relations.

It is wonderful that the cold deserts on the Arctic coasts still produce moss, that is dug out of the snow by the reindeer, which

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intention was good, remedy the defects of our own justice in ways quite incomprehensible to us, and that we must therefore neglect nothing in our striving for good. It must, however, be clear that one must not attempt to explain a moral action (as an occurrence in the world) by any such reference, for this would be a sham theoretical recognition of the supersensory and consequently illogical.

in turn serves as food or beast of burden to the people of East Yakutsk and the Samoyeds, or that the salty sand deserts, not to be quite useless, contain the camel which appears as though created to travel through them. Purpose appears yet more clearly, when one observes how seals, walruses and whales in addition to the furred animals of the coast of the Arctic Ocean, give the inhabitants food by their flesh and fuel by their blubber. But the provision of nature arouses the greatest degree of wonder through the driftwood, which she brings to those plantless regions, without anyone exactly knowing its source. Without this material the inhabitants could make neither their sleds and weapons nor the huts in which they live; in these regions they have enough to do with war against animals to make them content to live at peace among themselves. That which has driven men to such regions is presumably nothing else than war.

The first implement of war, taking animals, is the horse, which man has learnt to tame and domesticate ever since the earth has been populated (the elephant belongs to a later date, a luxury of constituted States). Next comes the art of cultivating certain sorts of grass called corn, no longer recognisable by us in their original form; similarly, the multiplication and refinement of fruits (perhaps in Europe of only two kinds, wild apples and pears) by transplantation and grafting could only take place in constituted States, where territorial possession was secured. Man pressed forward from a state of lawless liberty as hunters (*k*), fishers and shepherds to cultivation of the soil. Then salt and iron were discovered, perhaps the first much-sought articles of commerce of the different peoples, which first brought them mutually into peaceful relations and thus promoted agreement, communion and peaceful relations with more remote peoples.

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(*k*) Among all modes of life that of the hunter is without doubt most contrary to a civilised constitution: because the families which must live individually soon become strange, and therefore, being dispersed in far-spreading forests, hostile to each other, since each needs extensive room for the conquest of their food and clothing. The law against blood imposed on Noah (Gen. ix, 4—6) appears originally to have been nothing else but a prohibition of the hunting life, for in this it must often be necessary to eat raw meat, so that the former is forbidden simultaneously with the latter; this prohibition, frequently repeated, was later imposed as a condition on Gentile converts to Christianity by Jewish Christians, though in a different connection (Acts of the Apostles xv, 20, xxi, 25).

Nature, while providing that men can live in every region of the globe, has likewise despotically decreed that they shall live everywhere, even against their inclination, and this, without presupposing a conception of duty, which would bind them to it by a moral law. To attain her purpose, she has chosen the instrument of war. For we see races of men who give evidence of the unity of their origin in the unity of their language, *e.g.*, the Samoyeds on the Arctic Ocean on the one hand and a people of similar language 200 miles away in the Altaic mountains on the other, with between them a different—*viz.* a Mongol—race who, being riders and therefore warlike, have forced themselves in, thus scattering a part of the original race far away into the Arctic zone whither they would assuredly not have travelled by their own inclination (1).

Similarly the Finns, called Lapps in the most northerly districts of Europe, are just as far removed from the Hungarians (though related to them according to their language), by Gothic and Sarmitian peoples who have come between; and what can have driven the Esquimeaux (perhaps aboriginal European adventurers, a people totally different from any American race) to the North and the Pescherees to the South of America even to the torrid zone, except war, used by nature as a means of populating the whole earth. War itself requires no special motivation; it appears to be inherent in human nature and even to be considered as something noble to which man is impelled by honour without selfish motives, so that not only the courage of the warrior when there is war (as is fitting) but also the demand for war is judged as being intrinsically of great value by American, and, in the days of chivalry, by European savages alike.

Indeed, war is often undertaken in order to prove this courage. That is to say, war in itself is held to possess an intrinsic dignity;

(1) One might ask, if nature has decreed that these Arctic coasts shall not remain uninhabited, what shall become of the inhabitants when she so longer supplies them with driftwood (as may be expected to happen some day). For we may believe that with advancing civilisation the natives of the temperate zones will make better use of the wood, that grows on the banks of their streams, than to let it fall into the current and be washed away by the sea.

I answer: the settlers on the Obi river, the Yenisei and the Lena will bring it to them in commerce and barter it against the products of the animal kingdom in which the sea surrounding the Arctic coasts is so rich, when once nature has forced them to reciprocal peace.

and even philosophers write panegyrics about it as an ennoblement of humanity, forgetful of the Greek *dictum* that "war is bad because it makes more scoundrels than it removes." So much for what nature does to effect her own purpose for mankind in so far as it belongs to the animal kingdom.

Now comes the question which touches the essential for the prospect of perpetual peace:—What does nature do concerning the goal which man's own reason prescribes as a duty, *viz.*, that of furthering his moral purpose, and how does she guarantee that that which man should do under the laws of liberty, yet fails to do, shall be secured through the coercion of nature, which shall force him to do it, yet without violation of his liberty, and this in all three aspects of public right, *viz.*, civic law, the law of nations, and cosmopolitan law?

When I say that nature "wills" that this or that should be done, I do not mean that she imposes a duty on us to do it (for only practical reason, free from compulsion, can do that); she does it herself whether we like it or not (*fata volentem ducunt, nolentem trahunt*).

1. If a people were not compelled through internal discord to submit to the coercion of public laws, then war would effect this end, because, in accordance with the natural arrangement mentioned above, each people has as neighbour another hostile people against which it must unite to form a State in order to oppose the other as an armed power. Now the republican constitution is the only one perfectly adapted to the rights of man, but at the same time it is the most difficult to found and much more so to maintain; so much so, that many contend it would have to be a state of angels, since men with their selfish proclivities are incapable of such a sublime form of constitution. But now comes nature to reinforce the honoured, but in practice powerless, universal will founded in reason. This she effects through just those selfish proclivities, so that it only depends on a good organisation within the State (which after all does lie within man's powers) to direct these forces against each other in such a way that each neutralises or nullifies the destructive effect of the other. The result is, from the point of view of reason, as if neither existed, and man is forced to be, if not a morally good man, at all events a good citizen. The problem of founding a



constitution, however difficult it sounds, can be solved even by a nation of devils (if only they have sense). The problem is this: How to regulate and arrange the constitution for a collection of reasonable beings who together require universal laws for their preservation, though individually each is secretly inclined to regard himself as an exception to the law in such a way that, although their private inclinations be inimical to each other, these are reciprocally so destructive that the result is the same as if no such malicious intentions existed. Such a problem must be soluble. For it is really a question of how the mechanism of nature, not the moral perfectibility of man, may be used so to direct the hostile inclinations of a people that they mutually force each other to submit to laws and thus bring about the state of peace in which laws have sanctions. It can, indeed, be seen that actually existing, though very imperfectly organised, States do already closely approximate in external behaviour to what the conception of justice prescribes, although intrinsic morality is certainly not the cause of this (indeed, a good constitution in a State does not depend on intrinsic morality: on the contrary, the moral improvement of a people depends on a good constitution in their State). Thus the mechanism of nature through these selfish proclivities, which naturally stand in external opposition to each other, can be used by reason as a means of paving the way for its own purpose of moral legislation, whereby the cause of internal and external peace will be furthered and secured, in so far as this lies in the power of the State.

We must therefore agree: Nature wills irresistibly that justice shall triumph in the end. What man neglects to do in this respect she does herself in the long run though by very wasteful methods. "If one bends the cane too far it breaks and he who wants too much wills naught."—Bouterwek.

2. The idea of the law of nations postulates the existence of many separate independent neighbouring States, and although such a condition is in itself a state of war (if a federal union does not anticipate the outbreak of hostilities) even so it is, according to the dictates of reason, better than a fusion of the separate entities into one overgrown Power, which would become transformed into a universal monarchy; because laws lose their weight proportionately with the expansion of the government; and a

soulless despotism, after exterminating the germs of goodness, finally deteriorates into anarchy. Yet it is the desire of every State, or of its ruler, to arrive at a condition of perpetual peace by conquering the whole world, if that were possible. But nature wills differently. She uses two means of preventing the fusion of races, and of insuring separation, the differences of language and of religion (*m*)

These bring with them the disposition to mutual hatred and the pretext for war, yet with growing civilisation and the gradual approximation of man to increasing agreement in principles of concord they will lead to peace, not, like despotism, through the weakening of all forces in the churchyard of freedom, but through their balance and friendly rivalry.

3. Just as in some cases nature wisely separates nations, which the will of each State, basing its desire on the law of nations, would wish to unite under its own jurisdiction by cunning or force, so on the other hand it induces some to unite for purely selfish reasons—*viz.*, those which the conception of cosmopolitan law would not have secured against aggression and war. It is the spirit of commerce which cannot co-exist with a state of war, and which sooner or later masters each nation.

Since among all the forces subordinated to the power of the State money power is probably the most reliable, States are forced—not, indeed, by a fine regard for morality—to promote noble peace and to prevent war by arbitration wheresoever it threatens to break out, just as if they had formed perpetual alliances; for great alliances for war can by the nature of things only very rarely occur and still more rarely succeed.

In this way, nature guarantees perpetual peace through the mechanism of human proclivities; not, indeed, with a certainty sufficient to permit of theoretical prophecy with regard to man's future, yet great enough for all practical purposes, and to make it a duty to work for this not merely chimerical object. ✓

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(*m*) "Differences of religion"—a curious expression, just as if one spoke of differences of morals. There may be different tenets of faith historically, concerning not religion but the means used to promote it, which belong to the realm of learning. In the same way there may be different religious books (the Zendavesta, the Vedas, the Koran, etc.) but only a single religion valid for all men in all time. Those, therefore, can only concern the vehicle of religion, which is accidental, and changes with difference of time and place.

## ADDENDUM II.

*Secret article for perpetual peace.*

A secret article in treaties about public law is objectively—*i.e.*, considered from the point of view of its content—an anomaly, but subjectively there may well be grounds for secrecy in it, when the quality of the person dictating it is taken into account, because he may think it derogatory to his dignity to be known as its originator.

The only article of this nature is contained in this sentence: The maxims of philosophers regarding the conditions necessary to make perpetual peace possible shall receive consideration in the councils of States armed for war.

Although it appears to be beneath the dignity of the legislative authority of a State, which must naturally be credited with the greatest wisdom, to seek instruction from its subjects (the philosophers) about the principles of its conduct towards other States, yet such a course seems very advisable. Therefore the State will challenge the philosophers silently, which is as much as to say secretly, by permitting free and public speech concerning the general maxims that should govern the conduct of war and the establishment of peace (moralists will undoubtedly avail themselves of the opportunity unless definitely prohibited). Nor does mutual agreement of the States on this point require any special pre-arrangement, since it is prescribed as an obligation by the universal reason of mankind, which dictates the moral law. This does not mean, that the State must give preference to the principles of the moralist rather than to the claims of the jurist (the representative of the State), but only that the former must be heard. The jurist who has chosen as his symbol the scales of justice and, by the way, its sword as well, commonly uses the latter not merely to defend the former from any extraneous influence, but throws it into the balance if one scale is too light (*væ victis*). The jurist, who is not, morally speaking, a philosopher, is particularly prone to this temptation inasmuch as it is his office to apply existing laws, not to investigate the necessity of improving them, and he reckons this, in reality lower, duty of his faculty as the higher because it rests on force. Philosophy occupies a very low position in the hierarchy of power.

Thus it is said of philosophy that she is the handmaid of theology, or of the law, as the case may be. It is, however, not clear whether she is to precede her noble mistresses as torchbearer or to follow them as trainbearer.

It is not to be expected or even desired that kings should philosophise, or that philosophers should become kings; for the possession of power inevitably destroys the free judgment of reason. But it is necessary for their own enlightenment that kings, or a sovereign people (*i.e.*, a nation of self-governing equals) should not allow the class of philosophers to vanish, or to sink into silence, but rather should allow them the right of free speech, for since this class is by its nature incapable of intrigues and conspiracies, such a course is above the suspicion of propaganda.

#### APPENDIX.

##### I.

*On the disagreement between the moral law and politics in regard to perpetual peace.*

The moral law is in itself practicable in the objective sense as the summary of unconditional obligations which *should* rule our actions; and it is obviously illogical, after admitting the authoritativeness of the conception, to add that we *cannot* live in accordance with it. For then it would of itself lose its place in the moral realm (*ultra posse nemo obligatur*). Consequently there can be no conflict between politics as the executive of ethics and theoretical morality as such (*i.e.*, no conflict between theory and practice), unless, of course, one regards the latter as a general science of prudence, *i.e.*, a system of maxims teaching how to choose the most suitable means to satisfy one's greed of gain, thus wholly denying the existence of morality.

Politics teach: "Be wise as the serpent"; morality adds (as limiting condition): "And guileless as the dove." If the two are not compatible in the same commandment there really is a conflict between politics and morals. But if the combination of the two is absolutely essential, the contrary idea is absurd and the question as to how the conflict can be resolved cannot even be regarded as a problem. Although the sentence: "Honesty

is the best policy " contains a theory too often, alas, denied in practice, yet the likewise theoretical *dictum* "Honesty is better than all policy" is infinitely sublime and the indispensable condition for the latter. The terminus of morality does not yield to Jupiter (the terminus of power) for the latter is still subject to Fate, *i.e.*, reason is not sufficiently enlightened to recognise what series of predetermining causes would warrant any certainty in prophesying a fortunate or unfortunate issue to the actions or omissions of mankind regarded as subject to the mechanical causation of nature, though hope that the issue will conform to our wishes may run high. But what we have to do that we may remain in the paths of duty ruled by wisdom and thus progress to our final purpose reason prescribes in every detail clearly enough.

The man of affairs to whom the moral law is mere theory really bases his despairing contradiction of our encouraging hope, even while admitting both the obligation and the capacity to conform to the moral law on this: he claims to be able to foresee, that man by his very nature will never desire to do what is demanded of him, in order to bring about the conditions essential for perpetual peace.

It is true that the will of all single individuals to live under a legal constitution, based on the principle of liberty, is not sufficient to bring such a state into existence, so long as the will remains individual. The will to this condition must become collective in order to solve the difficult problem of uniting to form an integral civic community. As therefore a uniting cause is necessary over and above the individual wills of all in order to blend them into a general will, which no one of them all can do alone—the fulfilment of this idea in practice can be based on no other factor in a polity than on force, on the compulsion of which public law is afterwards founded. This, indeed, leads one in advance to expect great divergences in practice from the theoretical conception, since one can little trust the moral disposition of the legislator to leave the formation of a just constitution to the general will of the people, after he has united the uncivilised mob to form a nation.

It may be said that one who holds power will not accept laws from the people. A State that is in the position of not being subject to external laws will not submit to the tribunal of other



States in the matter of how to maintain its rights against them. Even a continent, if it feels itself to be superior to another, which does not happen to be in its way, will not neglect to increase its power by appropriation from or even conquest of the other. Thus all theoretical plans for civic law, the law of nations and cosmopolitan law dissolve in empty, impracticable ideals, while a policy based empirically on the proclivities of human nature, which does not think it too base to derive its maxims from current usage, may alone hope to erect the edifice of its statecraft on sure foundations.

In truth, if there is neither liberty, nor moral law based on it; ✓ if all that happens or can happen is the mere mechanism of nature, then politics (as the art of using mechanical principles to govern mankind) is the whole of practical wisdom and the conception of justice is an empty dream. If, however, it is thought absolutely essential to unite ethics and politics, or even to make of the former a limiting condition for the latter—the compatibility of the two must be admitted. Now I can indeed imagine an ethical politician, *i.e.*, one who so conceives the principles of statecraft that they can co-exist with the moral law, but not a political moralist, who so forges the moral law as to adapt it to the profit of the politician.

The moral politician will adopt this principle: When defects, which one has been unable to prevent, are recognised in the internal constitution or external relations of a State, it is a duty, particularly for the rulers of the State, to ponder how they may be rectified soonest and harmonised with natural law which reason presents to us as a model—even though this should entail a sacrifice of their egotism. Since the rupture of one of the bonds of the international or cosmopolitan federation before a better institution is ready to take its place is contrary to all statecraft which is at one with the moral law in this respect, it would be illogical to demand that a defect such as is mentioned above should be rectified immediately and violently; but it may well be demanded that the need for alteration should remain always in the ruler's thoughts, in order that the goal (*viz.*, the justest constitution) may be gradually approached. A State can govern ✓ itself according to republican principles even though according to its constitution it possess despotic powers: till gradually the

people become imbued with the influence of the bare idea of the authority of the law (as if it were based on physical force) and therefore become capable of directing their own legislative power, which is originally based on justice.

If through the turmoil of a revolution begotten by a bad constitution a more legalised constitution is attained, though by illegal methods, it should no longer be thought permissible even then to force the people back into their previous state, although during the revolution everyone who had been concerned in it either by force or by cunning would rightly be liable to the punishment meted out to conspirators.

With regard to the external relations of a State: None can be expected to renounce its constitution, even though it be a despotic one (for this, after all, is the strongest to oppose foreign enemies) so long as it runs the risk of being instantly absorbed by other States; that is to say, the fulfilment of the above-named resolution may be delayed till a more convenient time (*n*).

It may happen continually that despotic moralists, who always fail in practice, violate statecraft again and again, through taking or recommending hasty measures; even so, experience gained through their violation of nature must in the long run teach them more wisdom, while, on the other hand, moralising politicians so far as in them lies make improvement impossible, and perpetuate the violation of justice by whitewashing principles of statecraft, which are contrary to the moral law, on the pretext that human nature is incapable of the good prescribed by reason.

Instead of the practical purposes of which these men versed in statecraft boast, they indulge in sharp practices, since their one care is to flatter the existing powers for the sake of their own private interest, at the expense of the people and possibly of the whole world, in the manner of true jurists (craftsmen, rather

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(*n*) It is a permissive law of reason to allow a State to continue, even when tainted with injustice, until the conditions necessary for the turn of the wheel have matured naturally or have been brought near to maturity by peaceful means; because any legalised constitution, however little lawful, is better than none, and the latter fate, *viz.*, anarchy, would overtake a too hasty reform. Statecraft will therefore make it its duty to introduce into the existing state of things reforms which shall approximate to the ideals of public right more closely, and will not use revolutions, which nature herself instigates, to whitewash a still worse state of oppression, but will hear in them the call of nature to organise through fundamental reforms a constitution based on the principle of liberty, which can be the only permanent one.

than legislators) when they rise to politics. For since it is their business to put into execution the behests of the existing law of the land, without themselves reasoning about it, it follows that the existing constitution and, when that is changed by a higher power, the succeeding one, must ever appear to them to be the best, which is all quite right and in its proper mechanical order. But if this knack of being comfortable in any saddle inspires them with the illusion that they are capable of judging the principles of a constitution morally (i.e., a priori, not empirically); if they boast of knowing men (which is probably true since they have to do with many) without knowing man and what can be made of him (which demands a higher standard of anthropological observation) and, armed with these ideas, attempt to meddle with national and international law by *a priori* reasoning, they can only make the transition in the spirit of chicanery, since they follow their customary practice of thinking mechanically in terms of despotic sanctions even where reason only permits of legalised compulsion, founded on the principle of liberty, which alone makes a good constitution permanently possible. These craftsmen believe they can solve this problem empirically without reference to the moral law, by drawing their inferences from those constitutions which up to the present have lasted longest, even though these have many times been contrary to the moral law. The maxims that serve them, although never publicly acknowledged, may be summed up as follows:

1. *Fac et excusa*. Seize any favourable opportunity for appropriation of power for the State, either over the people, or over a neighbouring people; the justification and whitewashing will be much easier and more seemly after the accomplished act of violence than the previous search for convincing reasons for and the weighing of reasons against action. This will be so, particularly in the first case, since the executive power at home is at the same time the legislative power, which must be obeyed without argument. The very boldness of the deed gives an appearance of inner conviction of its righteousness and the God of Success (*bonus eventus*) is the best advocate after the event.

2. *Si fecisti, nega*. If you have done wrong, *e.g.*, with the object of driving your people to desperation and so to revolution, deny that it was your fault; blame, on the contrary, the obstinacy

of your subjects, or, if you have taken possession of a neighbouring State, declare that human nature is responsible, since if a man does not take the lead in violence, he may confidently expect to become its victim.

3. *Divide et impera*. That is to say, if there are certain privileged leaders among your people who have merely chosen you as their head (*primus inter pares*), sow dissension among them and strife between them and the people: at the same time support the latter with promises of greater freedom and all will come to depend unconditionally on you. Or if it is a question of foreign powers, to incite dissensions between them is a fairly safe method of subjecting them each in turn to your power under the semblance of aid rendered to the weaker.

It is true that no one is deceived by these political maxims; for they are all universally accepted and no one is ashamed of them, as if the injustice were too flagrant. Great powers care nothing for the verdict of the common herd, they are ashamed only before each other; but so far as these principles are concerned, it is only their failure, not their recognition, that could cause shame; for all the powers agree as to the morality of the maxims, and therefore they can certainly expect to retain their political honour, which consists only in the extension of their power, the methods employed for this purpose being immaterial (o).

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(o) Even though the existence of some evil predisposition rooted in human nature among men living together in a State, might still be doubted with a certain degree of plausibility, and the blame for the unlawfulness of their mode of thought be laid to the charge of a not yet sufficiently advanced civilisation, yet evil still appears obviously and undeniably in the reciprocal, external relations of States.

It is veiled at home through the compulsion of civic laws, because the inclination of the citizens to mutual violence is strongly opposed by a greater force, *viz.*, that of the Government, and this not only gives a veneer of morality to the whole, but at the same time greatly facilitates the evolution of the moral disposition to respect justice through barring the public manifestation of unlawful inclinations. For each man believes that he himself would loyally adhere to the holy conception of justice if he could be certain of the same principles in others—and these are partly assured to him by the State. This, therefore, though not as yet moral in itself, represents a great step towards that morality which is loyal to the idea of moral obligation without expectation of reciprocity. Since, however, each individual, despite his good opinion of himself, postulates an evil predisposition in everyone else, they stand condemned by each other: as being all, in reality, worth very little. (Why this should be so may be left unexplained, since human nature, being free, cannot be made to bear the blame.) But since the respect for

This much becomes clear from all the serpentine twistings of a non-moral prudence directed towards bringing forth peace among men out of the state of war which obtains in the natural condition: that men in their private relations can escape the conception of moral obligation as little as in their public capacities, and that they dare not openly found their policy merely on prudent jugglery, thereby repudiating all idea of public justice (and this is particularly striking in the conception of the law of nations). On the contrary, they pay it all suitable allegiance, though they are compelled to seek a hundred subterfuges and pretexts for evading it in practice and for endowing force with the authority of being the origin and support of all justice. To put an end to this sophistry (though not to the injustice it has countenanced) and to bring the false representatives of the powers of the earth to confess, that it is might, not right, that they favour, even showing some violence in their advocacy as if their word could become law, it will be well to clear up the delusion with which we deceive ourselves and others, and to discover the supreme principle from which issues the prospect of perpetual peace, showing at the same time how all the evil that bars its way arises from this: that the political moralist begins where, as is fitting, the moral politician ends, and by subordinating principle to purpose (*i.e.*, putting the cart before the horse) defeats his own object, *viz.*, to harmonise politics with the moral law.

In order to bring harmony into the realm of ethics it is necessary first to answer the question whether in problems of practical reason we should begin with the material principle, the end or object of choice, or with the formal, *i.e.*, the principle (directed only to freedom in external relations) which commands: 'So act that thou couldst will that thy maxim should become a universal law (be the end what it may).'

Without doubt the latter principle must have precedence, for as the fundamental principle of the moral law it involves an unconditional obligation, whereas the former is obligatory only

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righteousness, the existence of which no man can under any circumstances deny in himself, most solemnly affirms the idea that he is capable of practising it, each sees that for his own part he must make his actions conform to it, no matter how others may think.



in the empirical conditions attending the achievement of one's end or purpose. And even though this purpose should be obligatory (as is perpetual peace) yet the obligation could only have been derived from the necessity of conforming in conduct to the formal principle.

✓ The first principle, that held by the politic moralist, is the solution of the problem organising civic law, the law of nations and cosmopolitan law, and is merely a technical problem (*problema technicum*), the second, however, the principle of moral politicians, to whom it is a moral problem (*problema morale*), is very far removed from the first in practice, for it aims at establishing perpetual peace, which is desired no longer only as a physical benefit, but as the condition towards which the recognition of duty leads.

The solution of the first problem, *viz.*, the statecraft one, demands a deep insight into nature in order to use her mechanism for one's own purpose, and yet the outcome will remain quite uncertain, in so far as perpetual peace is concerned, whichever of the three aspects of justice one has in view. Whether the people within the State can be kept long in a state of obedience and prosperity best through severity or flattery, through the supreme power held by one, or by several rulers in unison or perhaps by an official aristocracy or through the rule of the people, is uncertain. History presents examples of every form of government which show the contrary—with the exception of the truly republican form, which, however, could only occur to the mind of a moral politician. Still more uncertain is a law of nations, ostensibly based on statutes, derived from ministerial deliberations. Indeed, it is merely an empty word, resting as it does on treaties which are accompanied at the very moment of their conclusion by mental reservations to break them.

On the other hand, the solution of the second problem—*viz.*, that of statesmanship—presents itself, so to speak, of its own accord, is obvious to all, puts all trickery to shame, and leads straight to the desired goal, prudently taking heed not to force the pace too quickly but to use every favourable opportunity incessantly to approach the end.

The rule then must be: "Seek first the kingdom of pure practical reason with its justice, and your aim—the blessing of

perpetual peace—will follow of itself.” For this is peculiar to the moral law, particularly in respect to the principles of justice, which beget a policy recognisable *a priori*: the less you make your principles subservient to your object, to your desired physical or moral advantage, the more in general the two are found to harmonise. The reason of this is, that the *a priori* general will either within a nation, or internationally, alone determines what is right among men; and this unison of the will of all can, through the mechanism of nature, be the cause of the fulfilment of the purposed end, and can itself lend effective power to the conception of right—if only its execution is proceeded with logically. It is, for instance, an axiom of moral politics that a people shall unite to form a State only in accordance with principles of liberty and equality, and this maxim is based, not on prudence, but on the moral law. Now although political moralists should ratiocinate at length about the mechanism of nature, which governs a collection of men in its transition into a community, maintaining that their strength would be sapped and their purpose frustrated by this axiom, even though they should seek to prove their assertion by examples of badly organised constitutions in ancient and modern times—*e.g.*, of democracies without a system of representation, even so they would deserve no hearing; particularly since such a destructive theory probably itself causes the evil that it foretells. According to it, man must be classed with the rest of the living automata, who retain the consciousness that they are not free possibly merely in order that they may become, in their own opinion, the most miserable beings in all creation.

The somewhat braggart *dictum* which, though proverbial, is true: *fiat justitia percat mundus*, which may be translated: “Justice shall reign, though every rascal in the world should perish,” is a brave principle which repudiates all crooked ways prescribed by force or cunning. But let it not be misunderstood nor regarded as permission to pursue one’s own rights with the utmost severity, for this would be contrary to ethical duty—on the contrary, it must be regarded by those in power as an expression of the obligation not to deny or infringe anyone’s right either through prejudice or through sympathy towards others. This demands in the first place an internal constitution

based on the pure principle of justice, and, secondly, the union of the State with other neighbouring or distant States (analogous to a universal State) for the purpose of compounding their disputes legally. This *dictum* means nothing else than this: political maxims must not be subservient to the welfare and happiness which every State may expect to derive from their practice, *i.e.*, they must not be thought to depend on the object, which each State has in view, as if this were the supreme though empirical principle of statesmanship—they must depend only on the pure conception of the moral law of duty, whose content is given *a priori* through pure reason, be the physical results what they may. The world will certainly not come to destruction through diminution in the number of scoundrels. Moral wrong has the quality, inseparable from its nature, of being self-contradictory and self-destructive, especially when it meets its like; it must therefore give place to the moral principle of good, even though by slow degrees.

There is then objectively (in theory) no conflict between ethics and politics. But subjectively in the selfish proclivities of mankind, which must not be called conduct since they are not based on the maxims of reason, the conflict will and must ever remain unresolved, for it is the whetstone of virtue, whose true courage (expressed in: *tu ne cede malis, sed contra audentior ito*) does not consist so much in bearing the ills and sacrifices of the moral life with resolution, as in boldly facing and triumphing over the cunning of that lying and treacherous principle of evil in ourselves, which is far more dangerous, since under the cloak of reason it presents the weakness of human nature as sufficient justification for all transgressions.

The politic moralist may say with truth: Sovereign and people or nation and nation do each other no wrong when they make war on each other by force or cunning—although they are, of course, wrong in showing no respect for the conception of moral law, which alone can be the foundation for a permanent peace.

For since the one transgresses against the other, who is just as evilly disposed, they both deserve what they get, if they mutually exhaust each other, always with the proviso that enough remains of their race to prolong the feud into the most distant future in order to serve as a warning to a late posterity. Hereby

the workings of Providence in the course of the world are justified, for the moral principle is never extinguished in man. Reason, which leads pragmatically to the fulfilment of moral ideas laid down in conformity with this principle, perpetually widens its sphere through a progressive culture, but at the same time the guilt of transgression also increases. The creation, the existence on earth of a race of such pernicious beings, does not appear to be justifiable by any theodicy if we assume that the human race is incapable of improvement; but to judge from this standpoint is much too presumptuous for us, and it is not permissible for us to insinuate our own theoretical conceptions of wisdom into the mind of the supreme, impenetrable power. We are inevitably driven to these despairing inferences, if we do not assume that the pure principles of the moral law have objective reality, *i.e.*, can be put into practice, and the people within a State and States mutually must act on this assumption, whatever empirical politics may interpose to the contrary. True politics can therefore take no step without first paying homage to morality, and although politics are in themselves a difficult art, no art is required to make them compatible with ethics, for ethics cuts the Gordian knot, which politics cannot untie, so long as the two remain ununited. The rights of man are holy whatever the cost to the ruling power. There can be no half measures here, no middle path of a pragmatically conditioned justice, no compromise between justice and utility. All policy must bow the knee to justice, but may hope to reach a state—though perhaps slowly—where it will be warmed in its comforting glow.

## II.

*On the agreement of politics and ethics when considered in the light of the transcendental conception of public right.*

If I abstract all content from public right (in respect to the empirical relations between men in a State or between States) in the manner usually practised by exponents of ethics, the concept of publicity still remains and the possibility of publication is inherent in every just claim. Without this there would be no justice, which can only be conceived of as being publicly

recognisable, consequently no law—which depends on this for its sanction.

Every just claim must possess this fitness for publication. This can therefore furnish an easily applicable *a priori* criterion whereby the falseness or unlawfulness of a claim (*prætensio juris*) can immediately be recognised, as it were, by an experiment of pure reason; for it is easily recognisable whether it exists in any given case, *i.e.*, whether publicity is compatible with the litigant's principles.

After this abstraction of all empirical content (to which belong the evil proclivities of human nature, that necessitate the use of compulsion) from the concept of civic law and the law of nations, the following statement may be called the transcendental formula of public right:

“All actions that affect the rights of others are unlawful unless their maxims are suitable for publication.”

This principle is not to be regarded as merely ethical, *i.e.*, concerning the theory of morals; it also has juridical validity, as concerning the rights of man. For a maxim that I cannot utter publicly without frustrating my own purpose, which must be kept secret if it is to succeed and which I cannot openly acknowledge without inevitably exciting universal opposition against me, can cause this inevitable and universal opposition, which is quite comprehensible by *a priori* reasoning, only by its inherent injustice, which is a menace to the common good. The principle is furthermore purely negative—*i.e.*, it serves only to show what is not right in respect to others. It is like an axiom, certain, though incapable of proof, and, moreover, easy to apply, as will become clear from the following examples:—

1. As regards civic—*i.e.*, internal—law (*ius civitatis*): here the question may arise, which many think difficult to answer but which is quite easily solved by the transcendental principle of publicity: Is a people justified in having recourse to rebellion in order to cast off the oppression of a so-called tyrant (“*non titulo, sed exercitio*”)? The rights of the people have been infringed, and the tyrant deserves his fate, that is unquestionable. Nevertheless it is absolutely unjustifiable for the subjects to assert their rights in this manner, and they would have no



cause to complain about injustice if they were worsted in the conflict and had afterwards to endure the direst penalties.

There is ample opportunity for ratiocination for and against this verdict, if one tries to maintain it through dogmatic deductions from the principles of law, but the transcendental principle of the publicity of public right avoids these digressions. In accordance with this a people would ask itself, before the inception of the civic contract, whether it would dare to publish its intention to rebel on occasion. It is clear that the people would be assuming a legal power over their Sovereign if they tried to make the right to exercise violence against him in certain circumstances a condition of the establishment of the constitution. In that case he would not be the Sovereign, or if the establishment of the State were to be made conditional on both it would become an impossibility. The people would therefore be frustrating their own purpose. The wrong inherent in revolutions thus becomes evident, for publication of the maxims which underlie them would nullify their object. They would therefore necessarily have to be kept secret. The same secrecy would not be incumbent on the Sovereign. He can declare openly that he will punish every revolt by the death of the ringleaders, though these may believe that he was the first to transgress the fundamental law; for in every civic constitution it must be assumed that the Sovereign has the irresistible supreme power, since he holds the right of command by virtue of his absolute power to protect each against the other. Conscious of this, he need not fear the frustration of his own intention through the open declaration of his maxims. This is quite consistent with the fact that if the rebellion were successful, the Sovereign would return to the ranks of the people, and would not be justified in instigating a counter revolution. On the other hand, he should not need to fear that he would be called to account for his erstwhile stewardship of the State.

2. As regards the law of nations, there can only be a question of the law of nations on the assumption of some sort of legal constitution, for only in this condition can the rights of man be granted, and in its very definition as a state of public justice the law of nations contains the idea of the publication of the general will which assures justice to each. This *status juridicus* must originate in some form of contract, which should not be

based on coercive laws (like that from which a State originates); on the contrary, it at all events may be an agreement for a permanent free association, like that of the above-mentioned confederation. Without some sort of legal state which actively unites the various moral or physical personalities—*e.g.*, in the natural state—there can be none but individual rights. A conflict between morals and politics becomes evident here, but the criterion of the fitness of the underlying maxims for publication is easily applied thus: The agreement is only binding on States for the preservation of peace among themselves and conjointly against other States, not for new acquisitions.

The following examples of an antinomy between politics and morality occur, the solution being given in each case:—

(a) “ If one of these States has given a promise to another, be it assistance, or the cession of certain lands, or subsidies or something similar, the question may arise, whether, in a given case on which the welfare of the State depends, the Sovereign may release himself from his obligation by claiming to be regarded in a dual capacity: first as Sovereign, in which capacity he is responsible to no one in the State, and, secondly, as merely the highest official of the State, in which case he is accountable to the State. The conclusion would be that in his second capacity he would be released from promises made in the first.”

Now if a State—or its Sovereign—openly declared such maxims it would naturally happen that every other would avoid him—or enter into other alliances in order to oppose his pretensions. This proves that politics, for all its cunning, would frustrate its own purpose on the ground of publicity, and consequently this maxim must be false.

(b) “ If the tremendous increase of power (*potentia tremenda*) of a neighbouring nation arouses suspicion, may one assume that it will attempt aggression because it has the power to do so? If so, does this give the less powerful nations the right to a united attack even without previous provocation?” If a State publicly answered this question in the affirmative, it would precipitate the evil even more quickly and certainly. For the greater power would anticipate the lesser, and alliances between the latter are a slender weapon against one who knows “*divide et impera*.”

This maxim of statecraft, therefore, by its publication, necessarily frustrates its own object and is consequently false.

(c) "If a smaller State by its position interrupts the continuity of a greater, which is necessary for the preservation of the former, is the greater power not justified in subduing the lesser and uniting it to itself?" It is clear that it could not openly acknowledge such an intention beforehand—for either the smaller States would quickly unite against it, or the other great powers would fall out about the prize. Consequently publicity frustrates the design—a proof that the maxim is unjust and possibly in a high degree; for injustice committed in respect to a slight cause may in itself be very great.

3. I pass over in silence all that may concern cosmopolitan law in this respect: for through its analogy with the law of nations, its maxims are easily indicated and appreciated.

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Thus, unfitness for publication of the maxims of the law of nations is good proof of the disagreement of politics and morals. But it is further necessary to ascertain under what conditions these maxims harmonise with the law of nations, since the contrary inference, that all publicly avowed maxims are necessarily good, is not justified, for a powerful despot will not conceal his maxims. The fundamental condition, which makes any law of nations possible, is primarily the existence of a legal state. For without this there is no public right. Anything that one can imagine apart from this, in the natural state, is simply individual right. It has been made clear above that a confederation of States, whose sole object is the avoidance of war, is the only legal condition compatible with the liberty of each. Therefore the harmony of politics and morals is possible only in a confederation, whose necessity is impliedly *a priori* in principles of law, and the just basis of all statecraft is the establishment of such a confederation in its most extensive form. Without this object in view all its subtleties are foolishness and veiled injustice. This quackery has its own casuistry, despite the best Jesuitical school.

(1) The "*reservatio mentalis*," the introduction, in drafting public treaties, of phrases that may be interpreted on

- occasion to suit one's own ends (*e.g.*, the difference between the *status quo de fait* and *de droit*);
- (2) probability—evil intentions are attributed to others, or the probability of their upsetting the balance of power used as justification for the ruin of other peaceful nations;
- (3) and finally the *peccatum philosophicum* (*peccatillum*, bagatelle), which regards the absorption of a small State as an easily pardonable trifle, if a great power thereby hopes to attain the greatest good of the greatest number (*p*).

The janus-face of politics is the first cause of this sophistry; for it intends to exploit one or other of the branches of morality for its own purpose. Both the love of man and respect for his rights are duties, but the former is only conditional, while the latter is unconditioned and inevitably obligatory; and he who would revel in the sweet feeling of benevolence should first be quite sure that he has not neglected the latter duty. Politics easily finds agreement with morals under its first-mentioned aspect—by sacrificing the rights of man to his Sovereign—but under the second, instead of bowing the knee, as it should, it finds it advisable not to enter into negotiations, and to deny all reality to morals and interpret all duties in the light of benevolence. But this cunning that shuns the light would be easily frustrated by philosophy through the publication of its maxims, if only the politicians dared to publish the maxims of philosophers.

For this purpose I propose another transcendental and positive principle for public right—with this formula:

“All maxims which require publicity, in order to attain their purpose, accord both with morality and politics.”

For if they can only attain their purpose by publicity, they must serve the universal purpose (*viz.*, the happiness) of mankind. And to serve this purpose—*i.e.*, to make mankind con-

(*p*) The vouchers for such maxims may be found in Mr. Justice Garve's treatise “On the connection of morals and politics, 1788.” This learned worthy admits from the beginning that he is unable to give a comprehensive answer to this problem. To assert merely that some connection is desirable, while admitting that he cannot answer the objections raised to it, appears to prove greater complaisance than is at all desirable towards those who are in any case inclined to misuse it.

tented with his lot, is the whole object of philosophy. But if this purpose is to be attainable only through publicity—*i.e.*, through the removal of distrust of these maxims, they must necessarily be conformable to the right of the people—for in this alone the agreement of the ends of all is possible. I must refer the further exposition and explanation of this principle to another occasion; but the fact that it is a transcendental formula is evidenced by the removal of all empirical conditions (of the theory of happiness) as the content of law, and by consideration of the form alone of universal justice.

\*            \*            \*            \*            \*

If it is a duty to make actual a condition of public justice, and if there is reasonable hope of so doing, though only in gradual but unending approximation, then perpetual peace which follows on peace treaties (hitherto falsely so-called—armistices would be a better name for them) is no empty dream. It is a task whose solution will surely approach its goal—for the ages in which progress is made will, we must hope, eventually become less prolonged.





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BARRISTER-AT-LAW,

*Associé de l'Institut de Droit International; Hon. Secretary of the  
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# INTRODUCTION.

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## I. THE SUPREME COURT OF THE UNITED STATES.

I have chosen as the subject of these lectures a comparison between the Supreme Court of the United States and the Permanent Court of International Justice. I have made this choice because such a comparison appears to me to afford an object-lesson of supreme value at the present moment.

Owing to our insularity, which is both a virtue and a vice, we are, perhaps, the most prone of all nations to ignore or reject the experience of other communities, even if they happen to be of our own race.

Now the origin and history of the Supreme Court present us with a study in international organisation which has proved most fruitful in the various attempts which have been made to establish International Arbitral Tribunals and International Courts of Justice. It is a study from which one rises with a confident belief in the future success of the Permanent Court of International Justice.

To appreciate the real significance of the Supreme Court you must examine the Constitution of the United States, and to understand that Constitution you must bear in mind the Constitutions of the New England States prior to the Declaration of Independence; the various schemes for union, such as "the New England Confederation" of 1643, William Penn's "Plan for a Union," 1754, and his "Sketch of Articles of Confederation" read

before the Congress of July 21, 1775; the causes which led up to the War of Independence; the Declaration itself; the Articles of Confederation of November 17, 1777, whereby the United States became for the first time a Confederation in law as well as in fact; and the Debates of the Philadelphia Convention of 1787, which framed the present Federal Constitution.

The Confederation of 1777 was a true confederation of sovereign independent States, united for certain specific purposes, and for such purposes only. It was a Union of States. It was not intended to be a super-State. There was apparently no intention to create a nation.

Its defects soon became apparent. The principal defect was the lack of any permanent judicial tribunal with jurisdiction to settle disputes between the States themselves, or between the central Government and any one State. The machinery by which, under Art. IX., Commissions *ad hoc* might be appointed by Congress, proved quite inadequate. Only one such Commission was appointed, and only one case decided. In the boundary dispute between Pennsylvania and Connecticut blood had flowed in 1781.

A dispute between the States of Virginia and Maryland relating to inland navigation produced a conference at Annapolis in 1786. Hamilton, one of the first to recognise the real difficulty, seized the occasion to convert the assembly into a constitutional conference, the Philadelphia Conference, which in May, 1787, adopted the new Constitution, whereby the old Confederation became a Federal Union with divided sovereignty.

This sovereignty was defined by Chief Justice Marshall in *McCulloch v. Maryland* (4 Wheaton, 316), decided in 1819, when he said: "The powers of sovereignty are divided between the Government of the Union and those of the States. They are each sovereign with respect to the objects committed to it, and neither sovereign with respect to the objects committed to the other."

This principle of divided sovereignty has been clearly recognised in our own Imperial Constitution, and has received judicial interpretation. It has been held, for instance, by the Judicial Committee of the Privy Council that the powers possessed by the Legislatures of the Canadian Provinces under sect. 92 of the British North America Act were not in any sense to be

exercised by delegation, but that the Provincial Legislatures had authority as plenary and as ample within the limits prescribed as the Imperial Parliament in the plenitude of its powers possessed and could bestow (see *Hodge v. The Queen*, 9 App. Cas. 117).

Whether the State delegates had any intention of creating a nation may be doubted. As Lord Bryce has observed, there were elements of unity; there were elements of diversity. James Wilson said in the Philadelphia Convention: "By adopting this Constitution we shall become a nation: we are not one now"; and the prediction has been amply fulfilled.

You will observe that the Constitution commences with the words: "We, the People of the United States, do ordain and establish this Constitution." The original words as approved by Congress were: "We, the People of the United States of New Hampshire, Massachusetts, Rhode Island, etc."; and these words were only changed by the committee on style. Moreover, the Constitution was not submitted to the American people. It was submitted to the States, and was ratified by the peoples of the States.

This is clearly expressed by James Monroe soon after the event, when he said that, in wresting the power, or what is called the sovereignty, from the Crown, it passed directly to the people, not to the people of all the colonies in the aggregate, but to the people of each colony—to thirteen distinct communities, and not to one.

This distinction was recognised by Hamilton, Madison, and others at the time. In *McCullock v. Maryland* (4 Wheaton, 316) Chief Justice Marshall said: "No political dreamer was ever wild enough to think of breaking down the lines which separate the States, and of compounding the American people into one common mass."

But from the very birth of the Constitution a ceaseless conflict has existed between the Federal Government and the States Governments.

We see two schools of thought struggling for the mastery. The one, believing in a strong national authority, welcomed centralisation as a symptom of strength in the national life. The other, believing in local self-government and State autonomy, regarded with apprehension the attempted supersession of State autonomy by the Federal Government, with its resulting over-concentration

of political action. Both schools were, and still are, strongly represented. Nevertheless, the growth of national sentiment is undoubtedly tending to substitute unity for union. The American people have begun to regard themselves as "one common mass," and it remains to be seen whether the preservation of local autonomy will be found in the awakened conscience, broader views, and higher sense of responsibility to the general public of the States in their effective legislation, conforming more closely to the general moral sense of the nation and in the more vigorous exercise of their authority for the general public good. I am inclined to think that *pari passu* with the growth of centralisation an enlightened provincialism will be substituted for a narrow parochialism.

Our immediate concern, however, is with the position of the Supreme Court in the Constitution. Familiar as you doubtless are with the structure of the Constitution, it is nevertheless desirable to refer briefly to its constituent parts.

By the Constitution all the legislative powers are vested in Congress, consisting of a House of Representatives, representing the people of the States according to population; and of a Senate, representing the States, or the people within the States, and in which each State is represented by two Senators, acting as independent members, and not as delegates upon instructions.

The powers granted to Congress are in general terms. Congress is free to exercise its discretion in the choice of means to carry out its powers so as "to provide for the common defence and general welfare of the United States," and within the express or implied grant of powers for this primary object "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the Government of the United States or in any Department or Offices thereof."

The chief executive power is vested in the President, who is elected by the people for a term of four years. Before taking office the President takes an oath to "faithfully execute the office of President," and "to the best of his judgment and power, preserve, protect and defend the Constitution of the United States." His powers are very great, and are said to be greater than those of any constitutional monarch.



The absence of a central judicial authority was the crowning defect of the Union created by the Articles of Confederation of 1777. This defect was remedied in the new Constitution of 1787. By Art. III. of that Constitution the judicial power of the Union is vested in one Supreme Court and in such inferior Courts as Congress may establish.

The judicial power extends to all cases in law and equity arising under the Constitution, the laws of the United States, and Treaties made or to be made under their authority; to all cases affecting Ambassadors, other public Ministers, and Consuls; to all cases of Admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between a State claiming lands under grants of different States, and between a State or the citizens thereof and foreign citizens or subjects.

In all cases affecting Ambassadors, other public Ministers, and Consuls, and those in which a State is a party, the Supreme Court exercises original jurisdiction, *i.e.*, all such cases are commenced in the Supreme Court.

In all other cases the Supreme Court exercises appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as Congress may make.

By the XIth Amendment the judicial power must not be construed to extend to any suit in law or equity commenced or prosecuted against one of the States by citizens of another State, or by citizens or subjects of any foreign State.

The law of the land is defined by Art. VI. to be "the Constitution and the Laws of the United States which shall be made in pursuance thereof; and all Treaties made or which shall be made under the authority of the United States."

By this law the Judges in every State are bound, notwithstanding anything in the Constitution or laws of any State to the contrary.

In these simple terms the Supreme Court of the United States, which has formed the model for the Permanent Court of International Justice, was established.

Thus was accomplished "the object of the Constitution," which, as Mr. Justice Story declared in *Martin v. Hunter*



(1 Wheaton, 304), decided in 1816, "was to establish three great departments of government—the legislative, the executive, and the judicial departments. The first was to pass laws, the second to approve and execute them, and the third to expound and enforce them."

Such, then, is the theory of the Constitution, but I must warn you that the theory does not always square with the facts.

I would here direct your attention to the origin of this theory of the separation of the legislative, executive, and judicial powers. It is said to have been due to the influence of Montesquieu, and particularly to the following passages from his *Spirit of Laws*:

"When the legislative and executive powers are united in the same person or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or Senate should enact tyrannical laws, to execute them in a tyrannical manner.

"Again there is no liberty, if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative the life and liberty of the people would be exposed to arbitrary control; for the judge might behave with all the violence of an oppressor.

"There would be an end of everything were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and that of judging the crimes or differences of individuals" (Vol. I., Book II., Ch. VI., p. 165).

It is interesting to note that Montesquieu's work was one of the books specially recommended to the New England law student.

We must not forget, however, that Montesquieu derived this division of powers from the Englishman Locke, and from his own observations of the English Constitution, which he imperfectly understood. It was another Englishman, Blackstone, who a generation later, with less justification, repeated Montesquieu's pious phrases. "Wherever," declared the author of the *Commentaries*, "the right of making and enforcing the law is vested in the same man or in one and the same body of men, there can be no public liberty." This doctrine crossed the Atlantic to persuade the framers of the Constitution that only the complete separation of powers can prevent the approach of tyranny.

In England at that time there was no such separation, nor has there been since; and yet the liberty of the subject is as secure, if not more so, in this country as in the United States. But we must remember that in the eighteenth century the House of Commons viewed with distrust and jealousy the power of the Crown, and endeavoured to exclude all servants of the Crown from their Assembly. This was the age of Private Bill legislation. As Maitland points out, Parliament was willing to pass an Act for naturalising Andreas Emmerich or to dissolve the marriage between Jonathan Twiss and Frances Dorrill, but it was not prepared to pass general statutes giving the Crown power to naturalise all aliens or to divorce all persons.

This distrust was shared by Americans, and found expression in the separation of powers in the new Constitution. It was framed, says Professor Pollard, "under the dominance of the old popular prejudice that there must always be a fundamental antagonism between the interests and instincts of the Government and those of the governed. No one could really be trusted with the exercise of sovereign power. It was therefore put under the lock and key of a rigid and written Constitution, and such powers as were permitted exercise were divided" (a). In the event, as we know, this division of powers has led to confusion and to civil war. It has not prevented that arbitrary exercise of powers which the framers of the American Constitution dreaded so intensely. Each of the departments has greater opportunities within its own sphere for arbitrary action than in England, and the veto of the Supreme Court on legislation has been as effective as ever was the Royal Veto in England.

Nevertheless, in spite of these defects of a rigid Constitution and a separation of powers, the rule of law which the New England settlers took with them has been observed as the fundamental principle of government. The independence of the Supreme Court has been secured and maintained. In spite of the theoretical separation of powers, the Judges of the Supreme Court, just as the Judges here, do in fact legislate; and in spite of the difficulties inherent in a federal system based on divided sovereignty, the Americans, just as they have established equality before the law

(a) *Evolution of Parliament*, 255.

for individuals within the State, so they have established equality before the law for the States within the Union.

As John Stuart Mill said in 1861: "The Supreme Court of the Federation dispenses International Law, and is the first great example of what is now one of the most prominent wants of civilised society, a real international tribunal" (b).

If the American Constitution had effected nothing more than this unique example, it would have earned the gratitude of the world.

One of the first acts of Congress was the organisation of this judiciary. On September 24, 1789, the measure known as "An Act to establish the judicial Courts of the United States" was signed by President Washington. By this Act the Supreme Court consisted of a Chief Justice and five Associate Justices, four of whom formed a quorum. The number has since been increased to nine, of whom six form a quorum.

Dividing the Union for judicial purposes into thirteen districts, now eighty, a District Court, composed of District Justices and presided over by a Justice of the Supreme Court, was established in each district.

For purposes of justice, which could not be confined within the lines of any one State, the Union was further divided into three circuits, now nine. To each circuit one Justice of the Supreme Court is assigned. To each circuit two or three Justices are appointed, one or two, as the case may be, being District Judges. The Court may consist of any two Justices, or of one sitting alone.

By the Act of 1891 Circuit Courts of Appeal, each composed of three Justices, were established. These Justices may be the Supreme Court Justice of the Circuit, the Circuit Justices, or one or more of the District Justices. This Court has relieved the Supreme Court of a mass of business which threatened to overwhelm it.

The Court of Claims, established by the Act of 1855, consists now of five Justices. As amended in 1912, it possesses general jurisdiction of all "claims (except pensions) founded upon the Constitution of the United States or any laws of Congress, upon any regulation of an Executive Department, upon any contract

express or implied with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect of claims which the party would be entitled to redress against the United States, either in a Court of law or admiralty, if the United States were suable." In such cases, therefore, the United States may be sued, without its consent, by a State or by an individual.

This jurisdiction may be compared with that of our High Court in entertaining Petitions of Right against the Crown in matters of contract.

The findings of the Court of Claims upon questions of fact are final and conclusive, but upon questions of law an appeal lies to the Supreme Court.

The Judges of the Supreme Court, and of the inferior Courts, hold office during good behaviour, and all alike are sworn to "administer justice without respect to persons, and to do equal right to the poor and to the rich, and to faithfully discharge and perform all the duties incumbent on them, according to the best of their abilities and understanding, agreeably to the Constitution and laws of the United States."

This judiciary Washington described in his letters as "the chief pillar upon which our national government must rest," and as "the keystone of our political fabric." It was undoubtedly regarded by Americans as the most important branch of the Government.

I propose to consider the main contributions made by this experiment to the solution of the problem of a Permanent Court of International Justice. These are the administration of International Law by the Federal Courts, their refusal to perform extra-judicial functions, and their definition of jurisdiction.

Of the many systems of the law administered by these Courts, including English, French, and Spanish law, it is sufficient for my purpose to refer only to that great body of law known as International Law. The conventional rules of International Law—that is to say, the provisions contained in Treaties ratified by the Senate—become part of the law of the land. The customary rules of International Law are assumed to be part of the law of the land, provided they do not conflict with some express statute. But, as was observed in the case of *The Charming Betsey*



(2 Cranch, 64), decided in 1804, "an act of Congress ought never to be construed to violate the law of nations, if any other possible construction remains." A few years later Chief Justice Marshall, in the case of *The Nereide* (9 Cranch, 388), declared that "Till an Act be passed the Court is bound by the law of nations, which is part of the law of the land."

The position is the same in this country. Our Courts are bound by International Law, unless there is some Act of Parliament to the contrary. In *The Zamora* ([1916] 2 A. C. 77) an Order in Council repugnant to International Law was held invalid.

The International Law administered by the American Courts has been defined to include not only questions of right between nations governed by what has appropriately been called the Law of Nations, but also questions arising under what is usually called Private International Law, or the conflict of laws, and concerning the rights of persons within the territory of one nation by reason of acts, private or public, done within the territory of another nation (*Hilton v. Guyot*, 159 U. S. 113).

As was said in *The Paquete Habana* (175 U. S. 677), decided in 1900: "International Law is part of our law, and must be ascertained and administered by the Courts of appropriate jurisdiction as often as questions of right depending upon it are duly presented for their determination. For this purpose, where there is no treaty and no controlling executive or legislative act, or judicial decision, resort must be had to the customs and usages of civilised nations; and as evidence of these, to the works of jurists and commentators, who by years of labor, research and experience have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is."

We have next to consider the nature of judicial power.

What did the framers of the Constitution understand by the expression "judicial power"? The colonial conception of this expression was precisely similar to that of Englishmen in the Mother Country at that period. This conception had been expressed in a series of decisions covering various aspects, a few of which are well worth recalling.



You will remember that in England at first the Judges, Serjeants, and Law Officers were full members of the King's Council in Parliament. As such, they played their part in politics. "Do not gloss the statute," said Chief Justice Hengham in 1305 to counsel, who was endeavouring to instruct the Court upon the interpretation of an Act of Parliament, "We understand it better than you, for we made it" (c).

In the dynastic struggles between Richard II. and Henry IV. the Judges were persuaded to give their opinion upon political questions, with the result that when the tide turned the Chief Justice lost his head and the rest of the Bench was sent into exile.

This severe lesson the Judges took to heart, for when called upon by the Lords in 1460 to give their advice upon the claim of the Duke of York to the Throne they refused, and have ever since declined to express their opinions upon political questions; and in a long series of cases they laid down the principles defining the nature of the judicial power and the extent of the executive power, with which we are all acquainted.

Even if we were not assured of the fact, we should be justified in assuming that colonial lawyers and publicists prior to the War of Independence were familiar with that conception of judicial power by virtue of which English Judges refused to pass upon political questions, and denied to the Executive the right to administer justice, to issue proclamations, decree prohibitions contrary to the law, or to make law, and by virtue of which they held that a by-law of an incorporated town and an Act of the Legislature of a Colony in excess of their grants of power were equally null and void (d).

That American Judges applied this conception even before the Union of 1787 appears from the case of *Holmes v. Walton* (Wambaugh Cases, 1, 22), decided in 1780. In this case the Supreme Court of New Jersey set aside a statute of the State, and a judgment founded upon it, as inconsistent with the Constitution of New Jersey, granting a right of trial by jury.

(c) Year Books, 33—5 Edw. I., Rolls Ser., p. 82.

(d) See *Clark's Case* (5 Coke's Rep. 64 a), *Prohibitions del Roy* (12 Coke's Rep. 63), *In re Proclamations* (12 Coke's Rep. 74—6), *Rex v. Cutbush* (4 Burrow, 2204), *Campbell v. Hill* (Cowp. 204), and *Winthrop v. Lechmore* (7 Connecticut Colonial Records, 571).

Immediately after the creation of the judiciary by the Act of 1789 Congress passed an Act "to provide for the Settlement of the Claim of Widows and Orphans to Pensions," and called upon the Circuit Courts to administer the Act.

Each of these Courts, however, being of opinion that the duty imposed by the Act was inconsistent with the judicial power, declined to entertain these claims.

By an Act of 1792 Congress attempted to impose upon the Circuit Courts the duty of sitting as Commissioners to decide pension claims. In the case of *United States v. Todd* (13 Howard, 52—3), decided in 1793, the Supreme Court held that the power conferred by the Act was not judicial power within the meaning of the Constitution, and was therefore unconstitutional. Although it is true the power conferred was judicial in its nature, it was not, as Chief Justice Taney explained in *United States v. Ferreira* (13 Howard, 40), decided in 1851, a judicial function to be exercised in the ordinary forms of a Court of Justice. It was the award of a commissioner, not the judgment of a Court of Justice.

Thus early did the Supreme Court, with infinite pains and courage, establish the principle that the Federal Courts could only exercise judicial power, and could not be constrained by the Legislature to perform extra-judicial duties inconsistent with the provisions of the Constitution; and just as the English Judges in 1460 declined to pass upon political questions, so in 1793 the Judges of the Supreme Court declined to comply with Washington's request for their opinion upon the construction of the Treaty of 1778 with France.

The nature of the judicial power of the Supreme Court is nowhere more clearly stated than by Chief Justice Taney in the opinion he wrote just before his death for the case of *Gordon v. United States* (2 Wallace, 561), in 1864 (see 117 U. S. Rep. 697). It is, he said, "exclusively judicial, and it cannot be required or authorised to exercise any other."

After quoting the provisions of the Constitution vesting original and appellate jurisdiction in the Court the Chief Justice continued: "The existence of the Court is, therefore, as essential to the organisation of the government established by the Constitution as the election of a president or members of Congress. It is a

tribunal which is ultimately to decide all judicial questions confided to the Government of the United States. No appeal is given from its decisions, nor any power given to the legislative or executive departments to interfere with its judgments or process of execution. Its jurisdiction and powers and duties being defined in the organic law of the Government and being all strictly judicial, Congress cannot require or authorise the Court to exercise any other jurisdiction or power or perform any other duty."

The Chief Justice then proceeded to discuss the reason for the creation of this power: "The reason for giving such unusual power to a judicial tribunal is obvious. It was necessary to give it from the complex character of the Government of the United States, which is in part National and in part Federal: where two separate Governments exercise certain powers of sovereignty over the same territory, each independent of the other within its appropriate sphere of action, and where there was, therefore, an absolute necessity, in order to preserve internal tranquillity, that there should be some tribunal to decide between the Government of the United States and the Government of a State, whenever any question of controversy should arise as to their relative and respective powers in the common territory. The Supreme Court was created for that purpose, and to ensure its impartiality it was absolutely necessary to make it independent of the legislative power, and the influence, direct or indirect, of Congress and the Executive. Hence the care with which its jurisdiction, powers and duties are defined in the Constitution, and its independence of the legislative branch of the Government secured."

Referring to a passage from *The Federalist* by James Madison, in which that publicist says that the decision is to be made impartially, and that every precaution is to be taken in order to secure this impartiality, because "some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of the compact" (e), the Chief Justice continued: "It was to prevent an appeal to the sword and a dissolution of the compact that this Court, by an organic law, was made equal in origin and equal in title to the legislative and executive branches of the

(e) *The Federalist*, No. xxxix.

Government, its powers defined and limited and made strictly judicial, and placed, therefore, beyond the reach of the powers delegated to the legislative and executive departments. And it is upon the principle of the perfect independence of this Court that, in cases where the Constitution gives it original jurisdiction, the action of Congress has not been deemed necessary to regulate its exercise, or to prescribe the process to be used to bring the parties before the Court or to carry its judgment into execution. The jurisdiction and judicial power being vested in the Court, it proceeded to prescribe its process and to regulate its proceeding according to its own judgment, and Congress has never attempted to control or interfere with the action of the Court in this respect."

And in conclusion the Chief Justice declared that an attempt of Congress or the Government to invest the Courts of the United States with the exercise of power not properly included in the grant of judicial power would be an attempt to infringe the sovereignty of the States, which had reserved the powers not directly or indirectly delegated to the United States.

We have next to examine the extent of jurisdiction of the Supreme Court. Just as attempts were made to enlarge its judicial power, so attempts were made to extend its jurisdiction. These attempts have an important bearing upon the question, which was raised, whether the Permanent Court of International Justice should be allowed to entertain suits at the instance of an individual.

*Oswald v. State of New York* (2 Dallas, 401) was the first case in which an individual commenced a suit against a State. No appearance was entered, and judgment was in 1793 given by default against the defendant State.

The real fight, however, took place in the famous case of *Chisholm v. State of Georgia* (2 Dallas, 419), decided in the same year, in which Chisholm, a citizen of the State of South Carolina, sued the State of Georgia. By four to one the Judges of the Supreme Court held that a citizen of one State might sue another State under Art. III. of the Constitution. Upon the strict construction of this Article the decision was correct; but it aroused the most violent opposition of the peoples of the States, who resented this alleged illegal infringement of State sovereignty.



The XIth Amendment, passed within a twelve-month, negated this decision, declaring that the judicial power should not be construed to extend to a suit in law or equity commenced by a citizen of one of the States against another State.

In *Hans v. State of Louisiana* (134 U. S. 1), decided in 1889, the question was raised whether a State could be sued by one of its own citizens upon a supposition that the case is one that arises under Art. III. of the Constitution, which declares that "the judicial power of the United States shall extend to all cases in law and equity arising under this Constitution," and the corresponding clause of the Act of March 3, 1875: "That the Circuit Courts of the United States have original jurisdiction, concurrent with the Courts of the several States, of all suits of a civil nature at common law or in equity . . . arising under the Constitution, etc."

Following the opinion of Chief Justice Taney in *Beers et al. v. Arkansas* (20 How. 527), decided in 1857, it was held by the Supreme Court that a Sovereign cannot be sued in his own Courts or in any other without his consent and permission; and since the Circuit Courts only possessed jurisdiction concurrent with the Courts of the States, they could not acquire a greater jurisdiction. Further, although the XIth Amendment did not expressly deny jurisdiction of such suits by individuals of a State against its own State, yet the spirit, if not the letter, of the Amendment did preclude such a suit; and the Court therefore considered the spirit, and because of the spirit refused jurisdiction.

Next, can a complaining State bring every issue between it and another State before the Supreme Court? The answer is in the negative. The only issues which the Court can hear and determine are questions which in their nature are capable of judicial solution—that is to say, the Court has jurisdiction in justiciable disputes only. What, then, is a justiciable dispute?

A justiciable dispute has been defined by ex-President Taft as "a controversy which can be settled in a Court on principles of law"; in other words, a controversy capable of judicial settlement.

Now although the judicial power of the Supreme Court was extended "to controversies between States" without exception, it does not embrace every issue between States. The only issues which the Court can hear and decide (except those expressly



entrusted to it by the Constitution) relate to questions which are in their nature capable of judicial solution—that is to say, the Court only possesses jurisdiction of justiciable questions. It is for the Court to decide whether the issue brought before it is justiciable or non-justiciable. Two or three examples must suffice. In *The State of Kansas v. The State of Colorado* (206 U. S. 95), decided in 1906, the complaining State sought to restrain the defendant State from appropriating so much of the water of the Arkansas River, which flowed from Colorado into Kansas, as to deprive the latter State of sufficient water for purposes of irrigation. In deciding that this was a justiciable dispute Mr. Justice Brewer said: “Whenever . . . the action of one State reaches through the agency of natural laws into the territory of another State, the question of the extent and the limitations of the rights of the two States becomes a matter of justiciable dispute between them, and this Court is called upon to settle that dispute in such a way as will recognise the equal rights of both and at the same time establish justice between them.”

The relations between the States in this case were said to depend upon principles of International Law, and in such decisions the Supreme Court was building up what might not improperly be termed an “interstate common law.”

On the other hand, where in *The State of Louisiana v. The State of Texas* (176 U. S. 1), decided in 1900, the Governor of Texas had enforced a quarantine regulation so as to injure the business of the citizens of New Orleans, the Court declined jurisdiction on the ground that there was nothing to show that the State of Texas had authorised or ratified the action of its health officers so as to make it its own. The regulation itself was a proper one for the protection of the inhabitants of Texas.

I will try to make the distinction quite clear. In the first case, by International Law the upper riparian State was not entitled to deprive the lower riparian State of its fair share of water for purposes of irrigation or navigation, and, if it did, it was liable for an infringement of a right residing in the injured State. This was therefore a justiciable dispute.

In the latter case, Texas, as a sovereign State, was entitled by International Law to make such regulations as it pleased for the entry of aliens into its territories, or to exclude them altogether.

The State of Louisiana, therefore, could not complain of any injury which might accrue to its citizens by reason of any conditions of entry into Texas imposed upon its citizens, since it had no right to insist upon their entry free from conditions; and since no *ius* was involved, this was a non-justiciable dispute, to be settled, if at all, by agreement.

The case of *Luther v. Borden* (7 Howard, 1), decided in 1843, may be cited to illustrate the refusal of the Court to interfere with the internal political affairs of a State. This case arose out of the so-called Dorr's Rebellion, and was an action of trespass brought with the object of obtaining from the Supreme Court a decision in favour of one of the two rival political parties, deciding that the old Government, which had been reconstituted, was illegal. In delivering the opinion of the Court, Chief Justice Taney declared that such a question could only be determined by the political authority, and that the Court would not entertain suits involving political rights and political questions.

It is worth noting that, in the general Arbitration Treaties entered into by the United States with Great Britain and France, the term "justiciable" was defined to include all issues which could be decided on principles of law or equity.

Since the Supreme Court is a Court of limited jurisdiction, the first questions to be determined are whether the Court has jurisdiction over the subject-matter of the particular suit brought before it, and over the parties to that suit.

In *Cherokee Nation v. State of Georgia* (5 Peters, 1), decided in 1831, Mr. Justice Baldwin said he had confined his examination of the case to the point of jurisdiction, "as jurisdiction is the first question which must confront us in every case." In this case jurisdiction was declined by the Supreme Court on the ground that the Cherokee Nation, although a State, was a dependent, not an independent, State.

In every case it is for the Court to determine whether it possesses jurisdiction or not.

I have now, I trust, clearly indicated the law administered by the Court in controversies between States, and the nature and extent of its judicial power. Of the alleged usurpation of judicial power by the Court, and of the process by which some political questions may become justiciable, I shall speak in the next lecture.

In conclusion I desire to emphasise the principle of judicial settlement adopted by the Americans in 1787.

Although the temporary Commissions under the Articles of Confederation of 1777 had proved unsatisfactory, the framers of the new Constitution retained the principle upon which they were based, viz., that of judicial settlement, fitting it to the needs of a more perfect union by conferring the jurisdiction to be exercised upon the Supreme Court, in which the States of the Union agreed to settle their disputes by due process of law.

In the century and a quarter which has elapsed since its creation the Supreme Court has entertained some eighty disputes between States, in which thirty-one of the States have been either plaintiff or defendant, and in which the United States itself has been either plaintiff or defendant or has intervened in the proceedings where its interests were involved.

But for the existence of the Supreme Court, any one of these disputes might have led to war, and many undoubtedly would have done so. By the Constitution the States renounced diplomacy and abjured war, and agreed to submit their differences to a Court of law. The Judges of the Supreme Court have justified the confidence thus reposed in them.

These eighty cases have proved that States, however divergent their interests may be, and however strong their provincial sentiments or prejudices, can settle their disputes in Courts of Justice by due process of law, and that between the breakdown of diplomacy and the resort to war there does exist an unfailing method of adjustment which even Sovereign Powers will accept.

In all these cases the Court has proved the great moral substitute for force. It has settled disputes between States in accordance with the principles of International Law and justice. As Dr. Brown Scott declares: "We see the mysteries between judicial and political power unveiled, the distinction between them stated, and the process by which political questions become justiciable revealed, and a procedure which has stood the arguments of counsel, satisfied the requirements of justice, and preserved peace between the States of the American Union and the Government of the Union, by assigning to each and keeping to each its appropriate sphere of action. Peace has come to the

States of the American Union through justice administered in its Court of Justice " (f).

This is a great achievement; and I trust this brief survey of the history and functions of the Supreme Court of the United States, the instrument of that achievement, will have impressed upon your mind the fact that, faced with the problem of establishing a Permanent Court of International Justice, we are not limited to *a priori* speculations, but have at our service the rich experience of a great nation, organised on a Federal system of divided sovereignty and the inheritor of English legal tradition.

(f) Judicial Settlement of Controversies between States of the American Union, p. 543.

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## II.—THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

The Supreme Court of the United States is not the only example of a Permanent Court of International Justice. In 1907 was established by the five States of Central America the Central American Court of Justice, composed of five Judges, to which the five Republics bound themselves to submit "all controversies or questions which might arise among them of whatever nature and no matter what their origin might be, in case the respective Departments of Foreign Affairs should not have been able to reach an understanding."

The Court was also empowered to take cognisance of suits which the citizens of one of the contracting parties might bring against the Government of one of the others on account of violation of treaties or denial of justice, and of other cases of an international character, including those which two or more of the Central American Governments, or one of them and a foreign Government, might agree to submit to it. It was declared "competent to determine its own jurisdiction, interpreting the Treaties and Conventions germane to the matter in dispute and applying the principles of International Law."

This Court, however, may be cited rather as a warning than as an example. In spite of the effort to secure the independence of the Judges, owing to the control exercised by the States over their respective nominees, the Court has never been really independent. It has occupied rather the position of a standing Commission of distinguished diplomats than that of a true Court of Justice.

It is true that the Court succeeded in averting a general war in 1908, but, on the whole, its judgments have not been received with enthusiasm or invariably obeyed. Its prestige cannot be said to stand very high in the eyes of the public, and but for the influence of the United States it would probably have



disappeared long before the expiration of the period of ten years, for which it was created. With the non-renewal of the Convention, which gave it birth, it died a natural death in 1917.

Its failure may be ascribed to two causes: First, the extravagant salaries paid to the Judges attracted prominent politicians, many of whom were appointed without regard either to judicial status or legal experience. Secondly, since no State Court in Central America has been known to be free from official influence, an International Court could not be expected to obtain greater freedom from political dictation. Under the new Federation now being formed perhaps these defects will be avoided.

Before dealing with the Permanent Court of International Justice it is necessary to refer briefly to the "Permanent Court of Arbitration" established by the Hague Conference, 1899, revised by the Hague Conference, 1907, and still in being. Each of the forty-four ratifying States was empowered to nominate four members, who were to be persons "of known competency in questions of International Law" and of "the highest moral reputation." These persons form a standing panel, from which the parties to a dispute select five to sit as arbitrators. Failing agreement, each party may appoint two arbitrators, of whom one only may be its national or chosen from among the persons selected by it as members of the Permanent Court. These four choose an umpire. If their votes are equally divided, the choice of the umpire is entrusted to a third Power selected by the parties. If the parties fail to agree upon a third Power, each selects a different Power, by whom the choice is to be made. If these two Powers fail to agree, they present two candidates from the panel, not being nationals of the parties, and the choice is settled by drawing lots.

In the preamble to the Convention creating the tribunal the signatory Powers declared their object to be the promotion of the friendly settlement of international disputes, the recognition of the solidarity uniting the members of the society of civilised nations, their desire to extend the empire of law, and to strengthen the appreciation of international justice. Convinced that the institution of a permanent tribunal accessible to all would contribute effectively to this object, the tribunal was made accessible to all nations at all times.

Since the year 1902 sixteen arbitrations have been heard by this tribunal.

That the awards should give complete satisfaction to all parties would be expecting too much of human nature. But they were, at any rate, accepted, and disputes which might have resulted in armed conflict were settled.

This tribunal is expressly recognised in the Peace Treaty of 1919. Art. 21 of the Covenant provides that "nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe doctrine, for securing the maintenance of peace."

The Hague Convention of 1907 for the Pacific Settlement of International Disputes is, of course, included in such "international engagements."

And by Art. 13 of the Covenant the members of the League "agree that, whenever any dispute shall arise between them which they recognise to be suitable to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration. . . . For the consideration of any such dispute the Court of Arbitration to which the case is referred shall be the Court agreed on by the parties to the dispute or stipulated in any convention existing between them."

The Permanent Court of Arbitration of The Hague would therefore appear to be the proper tribunal for all parties to the Hague Convention of 1907.

In January, 1920, the League of Nations was formally constituted.

One of its first acts was to appoint an Advisory Committee of Jurists to prepare a scheme for a Permanent Court of International Justice. These jurists met at The Hague in June, and their scheme, subject to one fundamental and some minor amendments, was adopted by the League in December of the same year.

By this scheme the Permanent Court is declared to be established in accordance with Art. 14 of the Covenant of the League, and to be in addition to, and not in substitution for, the Court of Arbitration already organised by the Hague Con-

ventions and recognised by Art. 13, and in addition to any other special Tribunals of Arbitrations to which States are always free to submit their disputes.

As indicated, the Permanent Court is founded upon Art. 14, and I therefore invite your close attention to its terms. It reads as follows :

“ The Council shall formulate and submit to the Members of the League for adoption, plans for the establishment of a Permanent Court of Justice. The Court shall be competent to hear and determine any dispute of an international character, which the parties submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or Assembly.”

At the outset I want to make the distinction between arbitration and judicial settlement perfectly clear. In the former the parties agree to submit certain disputes to a tribunal for arbitration, and agree upon the specific question or questions to be submitted to such tribunal. The award of the tribunal may be in the nature of a compromise. In the latter the complaining party is entitled to formulate his claim, and to call upon the Court to pass upon his claim upon the evidence in strict accordance with the law applicable, even in the absence of the defendant party and against its will. The decision of the Court is a judgment.

Arbitration may be voluntary or compulsory—that is to say, where the parties to a dispute which has arisen agree to submit it to arbitration it is voluntary, but where the parties agree to submit any dispute which may arise hereafter to arbitration it is compulsory. Compulsory arbitration was not embodied in the Hague Convention, 1907.

In the case of judicial settlement the jurisdiction is necessarily compulsory. A Court to which the defendant is not bound to submit is not a Court of Justice at all, but a Tribunal of Arbitration.

I shall return to this point when I deal with the jurisdiction of the Permanent Court.

We may now consider the framework of the Permanent Court as adopted by the League.

The constitution of the Court is contained in a statute comprising sixty-four articles, embracing four principal subjects,

viz.: (1) The composition of the Court; (2) the ambit of its jurisdiction; (3) the law to be administered; and (4) the practice or procedure of the Court.

It was in the composition of the Court that the schemes for a Court for the settlement of international disputes proposed at the Hague Conferences of 1899 and 1907 had broken down. At these Conferences the delegates had paid excessive worship to the doctrine of the equality of States. It was upon this rock that all such schemes foundered.

This difficult question was solved by the adoption of the Root-Phillimore plan, which, whilst recognising that States enjoy equal sovereignty, denies that they hold an equal position in the world, and consequently considers that the larger States are entitled to special consideration. By this scheme the appointment of the Judges is vested in the Council and the Assembly.

The number of Judges for the present has been fixed at fifteen—eleven Judges and four Deputy Judges. The method of their election is as follows:

1. The candidates are to be nominated by the members of the Permanent Court of Arbitration of The Hague. These candidates must have held the highest judicial office, or must be jurists of recognised competence in International Law.

2. From these candidates the Council and the Assembly each frames its own list of fifteen Judges.

3. The successful candidates are those appearing in both lists.

4. Obviously the successful candidates may not reach the requisite number of fifteen. In this event the Council and Assembly each frames a further list for the election of the remainder.

5. In the event of continuous disagreement a Committee of Conciliation is to be appointed to secure agreement.

6. Lastly, if this fails, the Judges already elected are to co-opt the remainder.

By this ingenious method the great and small Powers alike will obtain representation upon the Court in due proportion to their relative importance.

A Full Court is to consist of eleven Judges, but nine are sufficient to form a quorum.

For the despatch of urgent business the Court is to form annually



a chamber of three Judges, who, at the request of the parties, may hear and determine their cases by summary procedure. A session of the Full Court is to be held annually, commencing on June 15. The President may, however, summon a Court whenever it may be deemed necessary. The Court is to frame its own rules of procedure, and particularly of summary procedure.

Certain disputes relating to labour, transit, and communications are to be heard and determined by special chambers of Judges, which may sit elsewhere than at The Hague.

The question whether a Judge of the nationality of one of the parties should be entitled to sit in the case was settled by the provisions of Art. 31. To exclude a Judge on this ground might not only weaken the Court, but deprive it of anyone acquainted with the respective systems of law of the parties. Judges of the nationality of each party, therefore, are to retain their right to sit; and if the Court includes a Judge of the nationality of one of the parties only, the other party may select from the Deputy Judges a Judge of its nationality, if there be one. If there is not one, the party may choose a Judge, preferably from among those nominated as candidates by the Court of Arbitration.

The seat of the Court is fixed at The Hague.

The jurisdiction of the Court is confined to suits between States or members of the League. You will recollect that the Supreme Court of the United States of America construed the XIth Amendment to the Constitution to mean that its jurisdiction only extended to disputes between States as such, and not to individual claims against a State. It has, however, recently been held by the Supreme Court that, if an individual cedes his interest in, and title to, a claim to a State, such State can sue in its own name and behalf (*State of South Dakota v. State of North Carolina*, 192 U. S. Rep. 286, 1904).

So any Power, by espousing the case of its national, may make the case its own, so that the Court may assume jurisdiction of it if it be of an international character, and the judgment of the Court will be a judgment in favour of a State in a suit between States.

The jurisdiction of the Court is defined by Arts. 35, 36, and 37 of the statute. These Articles replace those contained in the original scheme of the Hague Jurists. Now the latter clearly



recognised the distinction between a Tribunal of Arbitration and a Court of Justice.

By a majority of eleven to one they were of opinion that the members of the League were bound by their acceptance of Arts. 13 and 14 of the Covenant (1) to submit to arbitration disputes suitable for submission to arbitration, and (2) to submit to a Court of Justice disputes capable of judicial settlement. In their view, therefore, for a certain class of disputes compulsory arbitration, and for another class of disputes compulsory judicial settlement, were within the purview of the Covenant. Accordingly they provided the machinery for a Permanent Court with compulsory jurisdiction by Arts. 33 and 34.

By these Articles, therefore, the Court might hear and determine the dispute, even against the will of the defendant State and in its absence—that is to say, the Court possessed compulsory jurisdiction.

This interpretation of Arts. 13 and 14 of the Covenant was rejected by the Council of the League.

The ostensible reasons given for this rejection are contained in the Report made by M. Bourgeois to the Council, and adopted by it. These were that, by Art. 12 of the Covenant, the parties were given a free choice (1) of laying their dispute before the Court, (2) of laying it before another International Tribunal, or (3) of laying it before the Council of the League, and that consequently compulsory arbitration or compulsory judicial settlement would be modifications of Arts. 12 and 13 of the Covenant. Objections to such modifications had been received from several Governments, and in the interests of the League itself it was undesirable that differences of opinion should arise at the very outset with regard to essential rules laid down in the Covenant.

Whatever objections may have been raised by some Governments, these reasons are obviously fallacious and ill-founded. Nevertheless, they are embodied in the new Arts. 35, 36, and 37.

Now Art. 12 refers to arbitration and conciliation only; there is not a word about the Permanent Court.

Secondly, it is Art. 14 alone which refers to judicial settlement. Hitherto no provision had been made for this. The Hague Jurists conceived such provision to be their business.

Art. 14 contains the words "the Court shall be competent to

hear and determine any dispute of an international character, which the parties submit to it."

Now I understand the words, "which the parties submit to it," to mean what Dr. Loder, Judge of the Supreme Court of the Netherlands, one of the Advisory Committee, understood them to mean, viz., that the party who has a right of an international character may submit the dispute to the Court, whether the defendant State submits to the jurisdiction of the Court or not. "If nothing but arbitration was intended," says Dr. Loder, "the provision would be superfluous."

And thirdly, there is, as I have already insisted, a fundamental distinction between arbitration and judicial settlement. This distinction is clearly recognised in Arts. 12 and 13, which provide for arbitration and conciliation; and in Art. 14, which provides for judicial settlement.

The new Art. 36 adopted by the Assembly is as follows: "The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in Treaties and Conventions in force."

It will be observed that no distinction is here drawn between justiciable and non-justiciable cases, or between the functions of an Arbitral Tribunal and those of a Court of Justice.

These amendments are the work of politicians, who either have failed to appreciate fundamental distinctions or have attempted by a thoughtless compromise to reconcile opposing principles.

The effect of these amendments is to make the Court little more than a Tribunal of Arbitration, and the attempt to make it a real Court, to which the contracting parties should be liable to be cited at the suit of any other of the contracting parties, has failed. All that remains to the Powers under Art. 36 is the option to accept the jurisdiction of the Court as compulsory, if they choose so to do, by signing the second protocol to the statute.

In his latest utterance Mr. Root, whilst regretting the abandonment of compulsory jurisdiction, thinks it is not so very serious, since the plan is there and the world is going to come to it sometime. Indeed, since he wrote these words, some of the signatory States, viz., Costa Rica, Denmark, Norway, Portugal, Salvador, and Switzerland, have so accepted the compulsory

jurisdiction of the Court when the other party to the dispute shall have recognised the same obligation.

I too regret this amendment, and still more that it should have been due to our own representative on the Council. In the first place, it shows a lack of confidence in the Court; and secondly, a determination not to submit to the Court disputes involving questions of "vital interests."

The unwillingness to submit to judicial decision disputes falling within a limited field is also an unwillingness to submit these very disputes to arbitration. It is a rejection of the principle that justiciable disputes ought to be submitted for judicial settlement to a Court of Justice.

The British objection to compulsory jurisdiction was the fear that the Court might be competent to entertain matters of Prize. Jurisdiction in Prize is of a very special nature, and it is doubtful whether it would have fallen within the competence of the Court. In the first place, the claimants are individuals, not States; and in the second, unless there is a Prize Act granting a title in the prize to the captors, the latter has no legal claim; and even if there is a Prize Act, if the captures were made in port or by non-commissioned ships, the captors have no legal rights in Prize at all. You will have observed that jurisdiction in Prize is expressly given to the Supreme Court of the United States by the Constitution, and this for obvious reasons unnecessary to enumerate.

It would have been possible to have expressly excluded this class of disputes from the compulsory jurisdiction, and to have left them to the International Prize Court already on the stocks. In order to avoid the remote contingency of their inclusion it was hardly necessary to knock the bottom out of the carefully drafted scheme of the Hague jurists.

Had compulsory jurisdiction been allowed to stand, every dispute, provided it were justiciable, would at least have been judicially investigated.

As matters now stand, we can only trust that once confidence in the Court is established the parties cited will submit to its jurisdiction; and just as the judgments of the Supreme Court have been obeyed, and just as the awards of Tribunals of Arbitration have been carried out, so the decisions of the Permanent

Court will be observed. A State which refuses to submit will, by its refusal, put itself hopelessly in the wrong in the eyes of the world. Once it submits to the jurisdiction of the Court, it will be constrained by the force of public opinion to obey its judgment or award.

We must now inquire what meaning is to attach to the phrase "disputes of an international character." This, you will recollect, is the phrase used in Art. 14 of the Covenant. In the original draft of the Hague jurists the jurisdiction of the Court was limited to "cases of a legal nature."

The phrase "cases of a legal nature" I take to be synonymous with the phrase "justiciable disputes," a phrase first used by Mr. Justice Bradley in *Hans v. Louisiana*, decided in 1889, when he said: "some things undoubtedly were made justiciable which were not known as such at the common law, such, for example, as controversies between States as to boundary lines, and other questions admitting of judicial settlement."

What the learned Judge meant was this. All controversies between independent States are in their nature political, and can only be settled by the respective political powers, either by treaty, or, failing treaty, by war; since there is no superior power to which the parties can appeal. Hence such controversies are non-justiciable.

But some of these controversies may become justiciable. For instance, by the Constitution the States of the American Union surrendered to the Federal Government their powers to declare war, to conclude peace, and to enter into agreements with each other or with a foreign Power without the consent of Congress; and by the same instrument they agreed to submit all controversies between each other to the decision of the Supreme Court to be established. Consequently, such questions as boundary disputes, which in their nature are political, became justiciable, and many such disputes were heard and determined by that Court.

Justiciable disputes, as I endeavoured to show in the previous lecture, are those capable of settlement upon principles of law in a Court of Justice.

So controversies between nations are of two classes—those which can be decided on principles of International Law, and which are



called justiciable; those which cannot be so decided, and which are called non-justiciable.

The distinction is not between political and non-political, since many political disputes may become justiciable. The Alaska boundary dispute, for instance, was political, and was submitted to arbitration. The award was, in fact, a compromise. But it was a dispute capable of judicial solution. It might therefore have been submitted to an International Court of Justice, had one been in existence, and determined strictly upon principles of International Law. In such a Court it would, I venture to think, have been decided differently.

On the other hand, such a dispute as the demand by Japan for the naturalisation of all Japanese residing in the United States, and the refusal by that Power, is a political dispute incapable of judicial decision upon principles of International Law. So, too, the demand by Bolivia for a window on the sea is a non-justiciable dispute.

Did the framers of Art. 14 of the Covenant, when they made the Permanent Court of International Justice competent to hear any dispute of an international character, intend to give the Court jurisdiction over non-justiciable disputes such as I have described? Surely not. No doubt these may be disputes of an international character; but since no legal rights are in issue, and the disputes are incapable of solution on principles of International Law, they are not fit cases for determination by a Court of Justice. Obviously such cases should be submitted to arbitration or to inquiry by the Council.

I understand, therefore, the phrase to mean, as the Hague jurists understood it to mean, "cases of a legal nature" or "justiciable disputes," and I assume that the Court will decline to entertain disputes purely political and incapable of judicial settlement upon principles of International Law.

As matters now stand, however, the Court would appear to be competent to hear and determine cases of whatever nature. Inquiry by the Council provided by Art. 12 of the Covenant has been dropped, and by the new Art. 37 the Permanent Court of International Justice has been substituted for the Permanent Court of Arbitration contemplated by Art. 13 of the Covenant. By Art. 38 the Court is empowered to decide a case *ex æquo et*



*bono* if the parties agree. The confusion of functions is thus complete.

Further, the Court is declared by Art. 35 to be open not only to the original signatories to the Covenant and to such others as may subsequently adhere, but to all other States not members of the League. The conditions under which the latter States may apply to the Court are to be determined by the Council, subject to the special provisions contained in treaties in force.

By Art. 17 of the Covenant: "In the event of dispute between a member of the League and a State which is not a member of the League or between States not members of the League, such States shall be invited to accept the obligations of membership of the League for the purposes of the dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Arts. 12 to 16 inclusive shall be applied with such modifications as may be deemed necessary by the Council."

If a State declines the invitation and resorts to war against a member of the League, Art. 16, whereby such action shall *ipso facto* constitute an act of war against all the members of the League, shall apply.

The law to be administered by the Court is defined in Art. 38. In other words, it is Public International Law, defined by Lord Russell of Killowen as "The sum of the rules or usages which civilised States have agreed shall be binding on them in their dealings with one another."

Subject to the specific provisions contained in Arts. 39—64, the Court, like the Supreme Court, is left to decide its own procedure. By these provisions the mode of procedure is to be that already well established in arbitration cases, viz., by case, counter-case, and reply. The parties must be represented by their agents, and they may engage counsel or advocates to appear before the Court. At the hearing, which is to be open to the public, unless otherwise decided by the Court, the evidence of agents, witnesses, and experts may be given orally.

It may well be that before the hearing can take place the wrongdoing, the subject of the dispute, may be continued. By Art. 41 power is given to the Court to indicate the provisional measures to be taken to preserve the respective rights of the

parties. Notice of such measures must be immediately given to the parties and to the Council, which will then be in a position to intervene diplomatically or otherwise.

These measures fall far short of what we call interim injunctions. But since the final orders of the Court are not to be enforced compulsorily, it would have been impracticable to give interim orders the force of injunctions. Once the parties are before the Court there is the same probability that these suggestions will be obeyed as readily as the final orders. At any rate, the orders of a judicial body are more likely to be obeyed than those of a political body like the Council.

This provision is taken from an Article which appears in the Treaties for the advancement of peace negotiated by Mr. Bryan in 1914 on behalf of the United States with China, France, and Sweden, which provides that, in case the cause of the dispute should consist of certain acts already committed, or about to be committed, the Commission to which the dispute is referred shall indicate what measures ought to be taken provisionally and pending the delivery of its report.

A somewhat similar provision is that by which the Central American Court was empowered to preserve the *status quo*.

Where the defendant fails to appear or to put in his defence judgment may be given in default. But by Art. 53 the Court must first be satisfied not only that it possesses jurisdiction, but that the claim is supported by substantial evidence and is well founded in law and fact. This provision was found necessary, since in most Continental States, if the defendant fails to appear, the plaintiff need not prove his case. Judgment is at once entered for the plaintiff. This is in accordance with the French maxim: "The absent are always wrong." But it is contrary to Anglo-American practice. Even if the defendant is absent, the plaintiff must prove his case. The Court is of counsel for the defendant, and will not give judgment against him until the plaintiff has proved him to be in the wrong.

The question of proceeding in the absence of the defendant was raised before the Supreme Court of the United States quite early in its history. In the case of *Grayson v. The Commonwealth of Virginia* (3 Dallas, 320), decided in 1796, the Court held that the plaintiff was entitled to proceed *ex parte*. Thirty years later

Chief Justice Marshall, referring to this case in *State of New Jersey v. State of New York* (3 Peters, 461), decided in 1830, allowed a summons to be issued against the State of New York to procure its appearance, and declared that if the defendant should still fail to appear the Court would proceed to a final hearing; and in the case of *State of Massachusetts v. State of Rhode Island* (12 Peters, 755), decided in 1838, the Court was of opinion "that the practice seems to be well settled, that in suits against a State, if the State shall refuse or neglect to appear, upon due service of process, no coercive measures will be taken to compel appearance; but the complainant or plaintiff will be allowed to proceed *ex parte*."

Conformably, therefore, to Anglo-American practice, the plaintiff will be required to establish his case to the satisfaction of the Court. Judgment in his favour will be entered only, and only if and to the extent which, the Court finds his case to be well founded in fact as well as in law.

Following the substance of the provisions of the Draft Convention for the Court of Arbitral Justice adopted by the Hague Conference, 1907, by Art. 55 all questions are to be decided by a majority of the Judges present. If the opinions are equally divided, the President of the Court shall have a casting vote.

Technically, the mere statement that the Court had found for or against the plaintiff would be sufficient. But Art. 56 very properly provides that the judgment shall state the reasons upon which it is based. Such a course indeed is necessary if the decisions of the Court are to form precedents and to build up International Law. Moreover, it is also necessary to satisfy public opinion, and to assist in its formation.

In the original scheme, although the dissenting Judges were entitled to record the fact of their dissent or their reservations, they were not allowed to express the reasons for either. The Advisory Committee feared that a dissenting Judge might expand his reasons in such a way as to make the judgment of the Court ridiculous.

The Council, however, has not shared this fear, and Art. 57, as amended, provides that Judges who do not concur in all or part of the judgment may deliver separate opinions. This amendment appears to me the better solution. A dissenting

judgment may be exceedingly valuable. For instance, the dissenting judgment of Lord Shaw in *Rex v. Halliday, Ex parte Zadig*, is generally regarded by the profession as a more correct statement of the law than the judgments of the other Law Lords.

By the new Art. 59, "the decision of the Court has no binding force except between the parties, and in respect of that particular case." If this provision is intended to rule out judicial decisions as precedents, although it is consistent with the functions of an Arbitral Tribunal, it is absolutely opposed to the Anglo-American conception of a Court of Justice. That most valuable part of International Law, judge-made law, would be lost to the world. If the provision does not bear this interpretation, it is a mere platitude and quite superfluous.

The judgment of the Court, which must be delivered in open Court, is final. There is no appeal. But it may be ambiguous, or may appear to be so. Accordingly, either party may request the Court to interpret either its meaning or its scope. Further, in the event of some new fact coming to light which might have had a decisive influence upon the decision had it been known to the Court and to the party claiming revision, a rehearing will be granted, provided the ignorance of the party claiming revision was not due to his own negligence.

Since third parties may be interested either originally or in a later stage of the case, they may be permitted to intervene, upon submitting a request to the Court, if in the opinion of the Court their interest is of a legal character. Whether the interest is of such a character is for the Court to decide. Since only the parties to the case are bound by the judgment, it is desirable that all States claiming an interest should be before the Court. *Interest reipublicæ ut sit finis litium*.

Finally, when the construction of a convention is raised, in which States other than those concerned in the case are parties, they must be notified. When notified, such States are entitled to intervene, and if they do so the construction placed upon the convention by the Court will bind them. By this provision a State not a party to the original dispute may present its views to the Court, and possibly obtain a decision in its favour.

Such are the principal provisions of an institution destined, let us hope, to prevent war and to preserve the peace of the



world. It is the fruit of the idea of public right which has been centuries in the making. It is the result of the labours of many conferences and committees. It is especially the creation of the Advisory Committee of Jurists which sat at The Hague last year, and we may note with gratification and pride that its successful birth was rendered possible by the wisdom and tact of two distinguished jurists—the one a representative of the United States, the other of Great Britain—Mr. Elihu Root and Lord Phillimore. For the scheme, as a whole, the chief credit must be assigned to the Dutch representative, Dr. Loder.

The Court has been approved by the Council and the Assembly of the League of Nations. If the League lives and develops, the Court will develop with it *pari passu* in usefulness and power. If, unhappily, the League should decline or cease to exist, the Court may still continue to function, provided an International Conference invested the diplomatic representatives of the States accredited to The Hague with the powers of the Council in relation to the Court. Whether the United States enters the League or not, of this I am assured: she will never willingly let die a Court in the creation of which she has played a great part, which forms a replica of her own Supreme Court, and which constitutes a living expression of her own high ideals.

Within a few months the League will meet for the selection of the Judges. Upon their wise selection will rest the influence and power of the Court. If they are chosen impartially, without undue regard to their nationality, as, no doubt, they will be, from the ranks of Judges and jurists enjoying in their respective countries a reputation for moral worth and learning and judicial experience, the judgments of the Court will be received by the world at large with respect, and will be accepted by the parties without demur.

In some quarters it is contended that execution of the judgments will be too uncertain, unless some physical sanction *in terrorem* is provided. Such a sanction has proved unnecessary in the case of its prototype, the Supreme Court. In my opinion, it will prove equally unnecessary in the case of the Permanent Court of International Justice. The idea of public right finds expression in the Law of Nations. International Law is based on consent, not on physical force.



In the United States the chief instrument of social progress has been the Supreme Court. Changes in the Constitution by amendments have become so difficult in matters of national importance as to be impossible. It is said that short of some great cataclysm or foreign or civil war any vital change is impracticable. But in a progressive community the law must respond to the growing needs of the people. If relief cannot be obtained from the Legislature, it must be found elsewhere. In the United States there have been usurpations of power both by the Legislature and the Executive. By some the Supreme Court also has been accused of judicial usurpation, but the judiciary has rather preserved the Constitution from popular passion and political faction. In proportion as the Executive, Congress, or the State Legislatures have grown wilder, it has set aside as unconstitutional a larger and larger proportion of their acts.

So wide, however, are the provisions in the Constitution that the Supreme Court has been able to apply the principles of the law to the changed conditions resulting from the more recent expansion in trade and industry. As Chief Justice Marshall declared: "Its nature requires that only its great outlines should be marked, and its important objects designated. . . . It was intended to endure for ages to come, and to be adapted to the various crises in human affairs." It necessarily leaves, therefore, a wide latitude for construction. But the majority of so-called constitutional cases turn not so much upon the interpretation of the provisions of the Constitution itself as upon the interpretation of the actual conditions to which it is applied. Although the Court asserts that it never exercises political power, the ultimate effect of every constitutional decision is not only to declare the rights of the parties, but to define the powers of government. Thus, as Mr. Justice Holmes admitted, the Court does in fact legislate, and within the wide latitude left for judicial construction the Court, in construing the Constitution, does exercise a political power (a). It has proved the safety-valve of the Constitution. Without such usurpation of power, if usurpation it be, it would have been impossible to adapt the Constitution to changing conditions, and to make it the beneficent organ of a progressive nation.

(a) *Southern Pacific Co. v. Jenson* (244 U. S. 221) (1916): "I recognise without hesitation that Judges do and must legislate."

Even in our own country, where the Crown in Parliament has untrammelled power of legislation, the Courts, though not to the same extent, do in fact legislate, adapting the law, not to the letter, but to the spirit of the Constitution by a similar method of interpretation.

Just as the Supreme Court has interpreted the Constitution widely and generously, so the Permanent Court of International Justice will, we may be sure, interpret International Conventions in a broad spirit so as to adapt them to living realities, and thus imperceptibly assist in building up a body of general principles acceptable to all nations. The Anglo-American conception of liberty is liberty regulated by law. Liberty regulated by law means liberty regulated and limited by the rights of others, so that all may enjoy the same liberty and the same equality of rights. So, too, the liberty of nations will be regulated by law; and the chief instrument of such regulation will be found in a Permanent Court of International Justice, which, like the Supreme Court, will act as the safety-valve to the new international organisation.

But we must not close our eyes to the difficulties, and even the dangers, of the new situation. States have been carved out of the old empires which are ignorant of their rights and duties. They are without experience of independence and self-government, and have little or no conception of liberty regulated by law as we Anglo-Americans understand the term. They are ambitious; they are extremely nationalist. It will not be easy to settle differences between them and between them and their former rulers.

At the same time we must remember that there is really no dispute, even though it included questions of "independence," of "national honour," or of "vital interests," which could not be settled either by a Tribunal of Arbitration or by a Court of Justice composed of independent Judges of world-wide reputation and acting under a sense of judicial responsibility. Without such a tribunal or Court civilisation is in dire peril, and, as has been well said, "although there are many nations, there is only one civilisation"; and that "one civilisation" can only survive and develop if both within each State, as well as between all States, the Rule of Law prevails.

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## TEXTS.

## ARTICLES OF CONFEDERATION.

*(Adopted by Congress November 15, 1777.)*

## ART. IX.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more States concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any State in controversy with another shall present a petition to Congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, Commissioners or Judges to constitute a Court for hearing and determining the matter in question: but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as Congress shall direct, shall in the presence of Congress be drawn out by lot, and the persons whose names shall be so drawn, or any five of them, shall be Commissioners or Judges, to hear and finally determine the controversy, so always as a major part of the Judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the Secretary



of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the Court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such Court, or to appear or defend their claim or cause, the Court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to Congress and lodged among the acts of Congress for the security of the parties concerned: provided that every Commissioner, before he sits in judgment, shall take an oath to be administered by one of the Judges of the supreme or superior Court of the State, where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection or hope of reward": provided also that no State shall be deprived of territory for the benefit of the United States.

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## THE CONSTITUTION OF THE UNITED STATES.

*(Adopted September 17, 1787.)*

### ART. III.

Sect. I.—The judicial power of the United States, both in law and equity, shall be vested in one Supreme Court, and in such Inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and Inferior Courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Sect. II.—The judicial power shall extend to all cases, both in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority. To all cases affecting ambassadors, other public ministers and consuls. To all cases of admiralty and maritime jurisdiction. To controversies to which the United States shall be a party. To controversies between two or more

States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens or subjects.

In cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Sect. III.—Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open Court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

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## AMENDMENT TO THE CONSTITUTION.

*(Ratified January 8, 1798.)*

### ART. XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State (a).

(a) For the full American texts, see Dr. Brown Scott's "United States of America: A Study in International Organisation."

## THE COVENANT OF THE LEAGUE OF NATIONS.

### ART. XI.

Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise the Secretary General shall on the request of any Member of the League forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

### ART. XII.

The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

In any case under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

### ART. XIII.

The Members of the League agree that whenever any dispute shall arise between them which they recognise to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration.

Disputes as to the interpretation of a treaty, as to any question of International Law, as to the existence of any fact which if established would constitute a breach of any international obliga-

tion, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration.

For the consideration of any such dispute the Court of Arbitration to which the case is referred shall be the Court agreed on by the parties to the dispute or stipulated in any convention existing between them.

The Members of the League agree that they will carry out in full good faith any award that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award, the Council shall propose what steps should be taken to give effect thereto.

#### ART. XIV.

The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

#### ART. XV.

If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration in accordance with Art. XIV., the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary General, who will make all necessary arrangements for a full investigation and consideration thereof.

For this purpose the parties to the dispute will communicate to the Secretary General, as promptly as possible, statements of their case, with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

The Council shall endeavour to effect a settlement of the dispute, and if such efforts are successful, a statement shall be



made public giving such facts and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the Representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by International Law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute, provided that such request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly, all the provisions of this Article and of Art. XII. relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the Representatives of those Members of the League represented on the Council and of a majority of the other Members of the League, exclusive in each case of the Representatives of the parties to the dispute, shall have the same force as a report



by the Council concurred in by all the members thereof other than the Representatives of one or more of the parties to the dispute.

#### ART. XVI.

Should any Member of the League resort to war in disregard of its covenants under Arts. XII., XIII., or XV., it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimise the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

#### ART. XVII.

In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League, the State or States not

Members of the League shall be invited to accept the obligations of Membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Arts. XII. to XVI. inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute and shall resort to war against a Member of the League, the provisions of Art. XVI. shall be applicable as against the State taking such action.

If both parties to the dispute when so invited refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

#### ART. XXI.

Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe doctrine, for securing the maintenance of peace.

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## DRAFT SCHEME FOR THE INSTITUTION OF A PERMANENT COURT OF INTERNATIONAL JUSTICE.

#### ART. 33.

When a dispute has arisen between States, and it has been found impossible to settle it by diplomatic means, and no agreement has been made to choose another jurisdiction, the party complaining may bring the case before the Court. The Court

shall, first of all, decide whether the preceding conditions have been complied with; if so, it shall hear and determine the dispute according to the terms and within the limits of the next Article.

#### ART. 34.

Between States which are Members of the League of Nations, the Court shall have jurisdiction (and this without any special convention giving it jurisdiction) to hear and determine cases of a legal nature concerning:

- (a) The interpretation of a treaty;
- (b) Any question of International Law;
- (c) The existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) The nature or extent of reparation to be made for the breach of an international obligation;
- (e) The interpretation of a sentence passed by the Court.

The Court shall also take cognisance of all disputes of any kind which may be submitted to it by a general or particular convention between the parties.

In the event of a dispute as to whether a certain case comes within any of the categories above mentioned, the matter shall be settled by the decision of the Court.

#### ART. 56.

If the judgment given does not represent, wholly or in part, the unanimous opinion of the Judges, the dissenting Judges shall be entitled to have the fact of their dissent or reservations mentioned. But the reasons for their dissent or reservations shall not be expressed in the judgment (a).

(a) For the full text, see League of Nations Secretariat, Document 44, November, 1920.

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## STATUTE FOR THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

*(Adopted by the Council at its Meeting of December 14, 1920.)*

### PROTOCOL OF SIGNATURE.

The Members of the League of Nations, through the undersigned, duly authorised, declare their acceptance of the adjoined Statute of the Permanent Court of International Justice of the League of Nations, which was approved by a unanimous vote of the Assembly of the League on December 13, 1920, at Geneva.

Consequently, they hereby declare that they accept the jurisdiction of the Court in accordance with the terms and subject to the conditions of the above-mentioned Statute.

The present Protocol, which has been drawn up in accordance with the decision taken by the Assembly of the League of Nations on December 13, 1920, is subject to ratification. Each Power shall send its ratification to the Secretary-General of the League of Nations; the latter shall take the necessary steps to notify such ratification to the other signatory Powers. The ratification shall be deposited in the archives of the Secretariat of the League of Nations.

The said Protocol shall remain open for signature by the Members of the League.

The Statute of the Court shall come into force as provided in the above-mentioned decision.

Executed at Geneva, in a single copy, the French and English texts of which shall both be authentic.

*(December 16, 1920.)*

### OPTIONAL CLAUSE.

The undersigned, being duly authorised thereto, further declare, on behalf of their Government, that, from this date, they accept as compulsory, *ipso facto* and without special Convention, the jurisdiction of the Court in conformity with Art. 36, para. 2 of the Statute of the Court, under the following conditions :

STATUTE FOR THE PERMANENT COURT OF  
INTERNATIONAL JUSTICE.

*(Provided for by Art. 14 of the Covenant of the  
League of Nations.)*

ART. 1.

A Permanent Court of International Justice is hereby established, in accordance with Art. 14 of the Covenant of the League of Nations. This Court shall be in addition to the Court of Arbitration organised by the Conventions of The Hague of 1899 and 1907, and to the special Tribunals of Arbitration to which States are always at liberty to submit their disputes for settlement.

CHAPTER I.

ORGANISATION OF THE COURT.

ART. 2.

The Permanent Court of International Justice shall be composed of a body of independent Judges, elected regardless of their nationality from amongst persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognised competence in International Law.

ART. 3.

The Court shall consist of fifteen members: eleven Judges and four Deputy Judges. The number of Judges and Deputy Judges may hereafter be increased by the Assembly, upon the proposal of the Council of the League of Nations, to a total of fifteen Judges and six Deputy Judges.

ART. 4.

The members of the Court shall be elected by the Assembly and by the Council from a list of persons nominated by the



national groups in the Court of Arbitration, in accordance with the following provisions.

In the case of Members of the League of Nations not represented in the Permanent Court of Arbitration, the lists of candidates shall be drawn up by national groups appointed for this purpose by their Governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Art. 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

#### ART. 5.

At least three months before the date of the election, the Secretary-General of the League of Nations shall address a written request to the Members of the Covenant or to the States which join the League subsequently, and to the persons appointed under para. 2 of Art. 4, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case must the number of candidates nominated be more than double the number of seats to be filled.

#### ART. 6.

Before making these nominations, each national group is recommended to consult its Highest Court of Justice, its Legal Faculties and Schools of Law, and its National Academies and national sections of International Academies devoted to the study of Law.

#### ART. 7.

The Secretary-General of the League of Nations shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Art. 12, para. 2, these shall be the only persons eligible for appointment.

The Secretary-General shall submit this list to the Assembly and to the Council.

## ART. 8.

The Assembly and the Council shall proceed independently of one another to elect, first the Judges, then the Deputy Judges.

## ART. 9.

At every election the electors shall bear in mind that not only should all the persons appointed as members of the Court possess the qualifications required, but the whole body also should represent the main forms of civilisation and the principal legal systems of the world.

## ART. 10.

Those candidates who obtain an absolute majority of votes in the Assembly and in the Council shall be considered as elected.

In the event of more than one national of the same Member of the League being elected by the votes of both the Assembly and the Council, the eldest of these only shall be considered as elected.

## ART. 11.

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

## ART. 12.

If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the Assembly and three by the Council, may be formed, at any time, at the request of either the Assembly or the Council, for the purpose of choosing one name for each seat still vacant, to submit to the Assembly and the Council for their respective acceptance.

If the conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Arts. 4 and 5.

If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been appointed shall, within a period to be fixed by the Council, proceed to fill the vacant seats by election from amongst those candidates who have obtained votes either in the Assembly or in the Council.

In the event of an equality of votes amongst the Judges, the eldest Judge shall have a casting vote.

#### ART. 13.

The members of the Court shall be elected for nine years.

They may be re-elected.

They shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

#### ART. 14.

Vacancies which may occur shall be filled by the same method as that laid down for the first election. A member of the Court elected to replace a member whose period of appointment had not expired will hold the appointment for the remainder of his predecessor's term.

#### ART. 15.

Deputy Judges shall be called upon to sit in the order laid down in a list.

This list shall be prepared by the Court and shall have regard, first, to priority of election and, secondly, to age.

#### ART. 16.

The ordinary members of the Court may not exercise any political or administrative function. This provision does not apply to the Deputy Judges except when performing their duties on the Court.

Any doubt on this point is settled by the decision of the Court.

## ART. 17.

No member of the Court can act as agent, counsel or advocate in any case of an international nature. This provision only applies to the Deputy Judges as regards cases in which they are called upon to exercise their functions on the Court.

No member may participate in the decision of any case in which he has previously taken an active part, as agent, counsel or advocate for one of the contesting parties, or as a member of a national or international Court, or of a commission of enquiry, or in any other capacity.

Any doubt on this point is settled by the decision of the Court.

## ART. 18.

A member of the Court cannot be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.

Formal notification thereof shall be made to the Secretary-General of the League of Nations, by the Registrar.

This notification makes the place vacant.

## ART. 19.

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

## ART. 20.

Every member of the Court shall, before taking up his duties, make a solemn declaration in open Court that he will exercise his powers impartially and conscientiously.

## ART. 21.

The Court shall elect its President and Vice-President for three years; they may be re-elected.

It shall appoint its Registrar.

The duties of Registrar of the Court shall not be deemed incompatible with those of Secretary-General of the Permanent Court of Arbitration.

## ART. 22.

The seat of the Court shall be established at The Hague.  
The President and Registrar shall reside at the seat of the Court.

## ART. 23.

A session of the Court shall be held every year.

Unless otherwise provided by rules of Court, this session shall begin on June 15, and shall continue for so long as may be deemed necessary to finish the cases on the list.

The President may summon an extraordinary session of the Court whenever necessary.

## ART. 24.

If for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

If the President considers that for some special reason one of the members of the Court should not sit on a particular case, he shall give him notice accordingly.

If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

## ART. 25.

The full Court sit except when it is expressly provided otherwise.

If eleven Judges cannot be present, the number shall be made up by calling on Deputy Judges to sit.

If, however, eleven Judges are not available, a quorum of nine Judges shall suffice to constitute the Court.

## ART. 26.

Labour cases, particularly cases referred to in Part XIII. (Labour) of the Treaty of Versailles and the corresponding portions of the other Treaties of Peace, shall be heard and determined by the Court under the following conditions :

The Court will appoint every three years a special chamber of five Judges, selected so far as possible with due regard to the



provisions of Art. 9. In addition, two Judges shall be selected for the purpose of replacing a Judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the Court will sit with the number of Judges provided for in Art. 25. On all occasions the Judges will be assisted by four technical assessors sitting with them, but without the right to vote, and chosen with a view to ensuring a just representation of the competing interests.

If there is a national of one only of the parties sitting as a Judge in the chamber referred to in the preceding paragraph, the President will invite one of the other Judges to retire in favour of a Judge chosen by the other party in accordance with Art. 31.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Art. 30 from a list of "Assessors for Labour cases" composed of two persons nominated by each Member of the League of Nations, and an equivalent number nominated by the Governing Body of the Labour Office. The Governing Body will nominate, as to one-half, representatives of the workers, and as to one-half, representatives of employers from the list referred to in Art. 412 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace.

In Labour cases the International Labour Office shall be at liberty to furnish the Court with all relevant information, and for this purpose the Director of that Office shall receive copies of all the written proceedings.

#### ART. 27.

Cases relating to transit and communications, particularly cases referred to in Part XII. (Ports, Waterways and Railways) of the Treaty of Versailles and the corresponding portions of the other Treaties of Peace shall be heard and determined by the Court under the following conditions:

The Court will appoint every three years a special chamber of five Judges, selected so far as possible with due regard to the provisions of Art. 9. In addition two Judges shall be selected for the purpose of replacing a Judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by

this chamber. In the absence of any such demand, the Court will sit with the number of Judges provided for in Art. 25. When desired by the parties or decided by the Court, the Judges will be assisted by four technical assessors sitting with them, but without the right to vote.

If there is a national of one only of the parties sitting as a Judge in the chamber referred to in the preceding paragraph, the President will invite one of the other Judges to retire in favour of a Judge chosen by the other party in accordance with Art. 31.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Art. 30 from a list of "Assessors for Transit and Communications cases" composed of two persons nominated by each Member of the League of Nations.

#### ART. 28.

The special chambers provided for in Arts. 26 and 27 may, with the consent of the parties to the dispute, sit elsewhere than at The Hague.

#### ART. 29.

With a view to the speedy despatch of business, the Court shall form annually a chamber composed of three Judges who, at the request of the contesting parties, may hear and determine cases by summary procedure.

#### ART. 30.

The Court shall frame rules for regulating its procedure. In particular, it shall lay down rules for summary procedure.

#### ART. 31.

Judges of the nationality of each contesting party shall retain their right to sit in the case before the Court.

If the Court includes upon the Bench a Judge of the nationality of one of the parties only, the other party may select from among the Deputy Judges a Judge of its nationality, if there be one. If there should not be one, the party may choose a Judge, preferably from among those persons who have been nominated as candidates as provided in Arts. 4 and 5.

If the Court includes upon the Bench no Judges of the nationality of the contesting parties, each of these may proceed to select or choose a Judge as provided in the preceding paragraph.

Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point is settled by the decision of the Court.

Judges selected or chosen as laid down in paras. 2 and 3 of this Article shall fulfil the conditions required by Arts. 2, 16, 17, 20, 24 of this Statute. They shall take part in the decision on an equal footing with their colleagues.

#### ART. 32.

The Judges shall receive an annual indemnity to be determined by the Assembly of the League of Nations upon the proposal of the Council. This indemnity must not be decreased during the period of a Judge's appointment.

The President shall receive a special grant for his period of office, to be fixed in the same way.

The Vice-President, Judges and Deputy Judges, shall receive a grant for the actual performance of their duties, to be fixed in the same way.

Travelling expenses incurred in the performance of their duties shall be refunded to Judges and Deputy Judges who do not reside at the seat of the Court.

Grants due to Judges selected or chosen as provided in Art. 31 shall be determined in the same way.

The salary of the Registrar shall be decided by the Council upon the proposal of the Court.

The Assembly of the League of Nations shall lay down, on the proposal of the Council, a special regulation fixing the conditions under which retiring pensions may be given to the personnel of the Court.

#### ART. 33.

The expenses of the Court shall be borne by the League of Nations, in such a manner as shall be decided by the Assembly upon the proposal of the Council.

## CHAPTER II.

## COMPETENCE OF THE COURT.

## ART. 34.

Only States or Members of the League of Nations can be parties in cases before the Court.

## ART. 35.

The Court shall be open to the Members of the League and also to States mentioned in the Annex to the Covenant.

The conditions under which the Court shall be open to other States shall, subject to the special provisions contained in treaties in force, be laid down by the Council, but in no case shall such provisions place the parties in a position of inequality before the Court.

When a State which is not a Member of the League of Nations is a party to a dispute, the Court will fix the amount which that party is to contribute towards the expenses of the Court.

## ART. 36.

The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in Treaties and Conventions in force.

The Members of the League of Nations and the States mentioned in the Annex to the Covenant may, either when signing or ratifying the protocol to which the present Statute is adjoined, or at a later moment, declare that they recognise as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal disputes concerning :

- (a) The interpretation of a Treaty.
- (b) Any question of International Law.
- (c) The existence of any fact which, if established, would constitute a breach of an international obligation.
- (d) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain Members or States, or for a certain time.

In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

ART. 37.

When a treaty or convention in force provides for the reference of a matter to a tribunal to be instituted by the League of Nations, the Court will be such tribunal.

ART. 38.

The Court shall apply :

1. International conventions, whether general or particular, establishing rules expressly recognised by the contesting States ;
2. International custom, as evidence of a general practice accepted as law ;
3. The general principles of law recognised by civilised nations ;
4. Subject to the provisions of Art. 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

This provision shall not prejudice the power of the Court to decide a case *ex æquo et bono*, if the parties agree thereto.

CHAPTER III.

PROCEDURE.

ART. 39.

The official language of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment will be delivered in French. If the parties agree that the case shall be conducted in English, the judgment will be delivered in English.

In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court will be given in French and English. In this case the Court will at the same time determine which of the two texts shall be considered as authoritative.

The Court may, at the request of the parties, authorise a language other than French or English to be used.



## ART. 40.

Cases are brought before the Court, as the case may be, either by the notification of the special agreement, or by a written application addressed to the Registrar. In either case the subject of the dispute and the contesting parties must be indicated.

The Registrar shall forthwith communicate the application to all concerned.

He shall also notify the Members of the League of Nations through the Secretary-General.

## ART. 41.

The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to reserve the respective rights of either party.

Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and the Council.

## ART. 42.

The parties shall be represented by agents.

They may have the assistance of counsel or advocates before the Court.

## ART. 43.

The procedure shall consist of two parts: written and oral.

The written proceedings shall consist of the communication to the Judges and to the parties of cases, counter-cases and, if necessary, replies; also all papers and documents in support.

These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

A certified copy of every document produced by one party shall be communicated to the other party.

The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel and advocates.

## ART. 44.

For the service of all notices upon persons other than the agents, counsel and advocates, the Court shall apply direct to the Government of the State upon whose territory the notice has to be served.

The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

## ART. 45.

The hearing shall be under the control of the President or, in his absence, of the Vice-President; if both are absent, the senior Judge shall preside.

## ART. 46.

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

## ART. 47.

Minutes shall be made at each hearing, and signed by the Registrar and the President.

These minutes shall be the only authentic record.

## ART. 48.

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

## ART. 49.

The Court may, even before the hearing begins, call upon the agents to produce any document, or to supply any explanations. Formal note shall be taken of any refusal.

## ART. 50.

The Court may, at any time, entrust any individual, body, bureau, commission, or other organisation that it may select, with the task of carrying out an enquiry or giving an expert opinion.

## ART. 51.

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Art. 30.

## ART. 52.

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

## ART. 53.

Whenever one of the parties shall not appear before the Court, or shall fail to defend his case, the other party may call upon the Court to decide in favour of his claim.

The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Arts. 36 and 37, but also that the claim is well founded in fact and law.

## ART. 54.

When, subject to the control of the Court, the agents, advocates and counsel have completed their presentation of the case, the President shall declare the hearing closed.

The Court shall withdraw to consider the judgment.

The deliberations of the Court shall take place in private and remain secret.

## ART. 55.

All questions shall be decided by a majority of the Judges present at the hearing.

In the event of an equality of votes, the President or his deputy shall have a casting vote.

## ART. 56.

The judgment shall state the reasons on which it is based.

It shall contain the names of the Judges who have taken part in the decision.

## ART. 57.

If the judgment does not represent in whole or in part the unanimous opinion of the Judges, dissenting Judges are entitled to deliver a separate opinion.

## ART. 58.

The judgment shall be signed by the President and by the Registrar. It shall be read in open Court, due notice having been given to the agents.

## ART. 59.

The decision of the Court has no binding force except between the parties and in respect of that particular case.

## ART. 60.

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

## ART. 61.

An application for revision of a judgment can be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

The proceedings for revision will be opened by a judgment of the Court expressly recording the existence of the new fact, recognising that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

The application for revision must be made at latest within six months of the discovery of the new fact.

No application for revision may be made after the lapse of ten years from the date of the sentence.

## ART. 62.

Should a State consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene as a third party.

It will be for the Court to decide upon this request.

## ART. 63.

Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar shall notify all such States forthwith.

Every State so notified has the right to intervene in the proceedings: but if it uses this right, the construction given by the judgment will be equally binding upon it.

## ART. 64.

Unless otherwise decided by the Court, each party shall bear its own costs (a).

(a) League of Nations Official Journal, Jan.—Feb., 1921, pp. 14—25.











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